1472.a.28 (2.)

EIGHT CASES OF Conſcience:

Occaſionally Determined

BY

The late Reverend Father in GOD,

ROBERT SANDERSON,

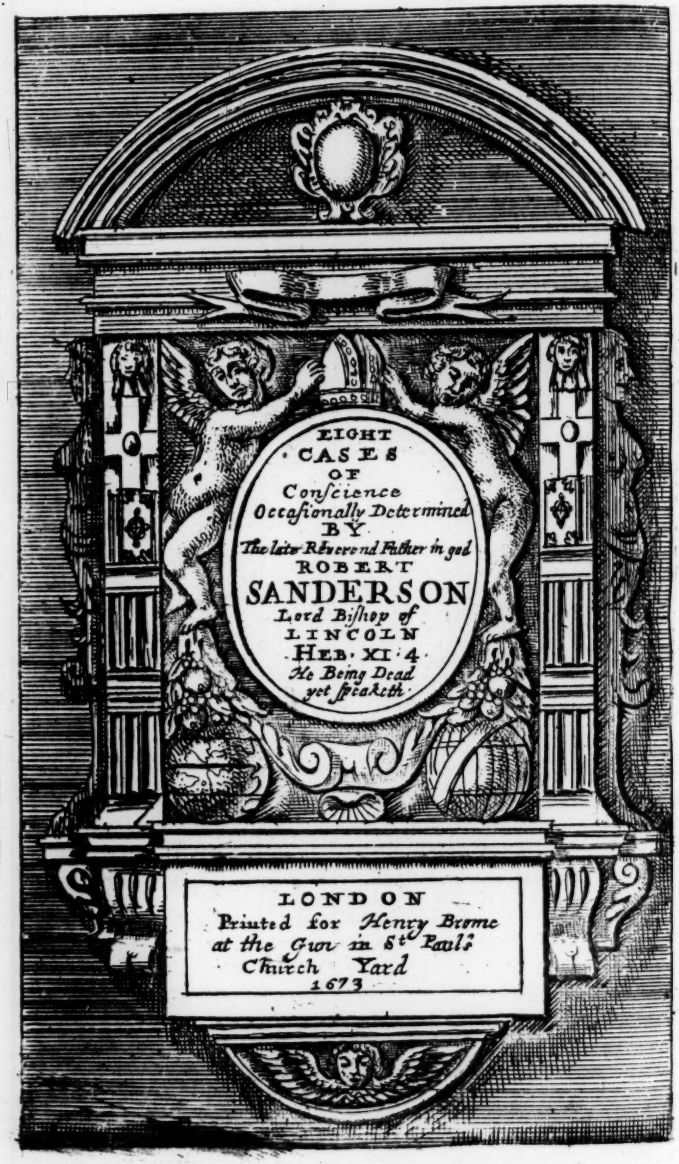
Lord Biſhop of LINCOLN.

HEB. xi. 4.

He being Dead, yet ſpeaketh.

LONDON:

Printed for *Henry Brome*, at the Gun in St. *Paul's* Church Yard. 1674.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A LETTER from a Friend concerning the enſuing *CASES.*

SIR,

HAving peruſed the Papers you ſent me, I can ſafely vouch them for Genuine, and not in the leaſt Spurious, by that reſemblance they wear of their Reverend Author; and therefore you need not fear to bring them to the Publick Teſt, and let them look the Sun in the face.

'Tis true, their firſt Commiſſion was but ſhort, and long ſince expired, they being deſigned only to viſit and reſpectively ſatisfie ſome private Friends; yet I cannot ſee what injury you will offer to his ſacred aſhes, if, by renewing that, you ſend them on a little farther Embaſſie for the common good.

Indeed the leaſt remains of ſo matchleſs a Champion, ſo invincible an Advocate in foro Theologico, *like the filings and fragments of Gold, ought not to be loſt; and pity the world was not worthy many more of his learned Labours.*

But —— Præstat de Carthagine tacere quàm pauca dicere; *far be it from me to pinion the wings of his Fame, with any rude Letters of Commendation; or, by way of precarious Pedantry, to court any man into a belief of his worth, since that were to attempt* Iliads *after* Homer, *and spoil a Piece done already to the life by his own Pencil, the works whereof do sufficiently* praise him in the gates.

All I aim at is, to commend and promote your pious intention, to give the world security, by making these Papers publick, that they shall never hereafter stand in need of any other hand to snatch them out of the fire, a doom (you say) once written upon them.

I have no farther trouble to give you, but to thank you for those excellent Pieces of the same Hand and Stamp (as every Intelligent Reader will easily discern) with which as an accession to this Edition, your Care and Piety hath obliged the Publick: Only again let me bespeak your vigilance over the Press, which by her daily teeming and expertness, or (at least) negligence of the Midwife, is wont of late to spoil good births with monstrous deformities, and unpardonable Errata; *so you will avoid a double guilt contracted by some without fear or wit, of abusing your critical Reader on the one hand, and your most judiciously exact Writer on the other; and (if that may contribute any thing more) very much gratifie the most unworthy of his Admirers.*

The

The Eight Caſes Determined.

I. *Of the Sabbath* 1
II. *Of Marrying with a Recuſant* 20
III. *Of Unlawful Love* 30
IV. *Of a Military Life* 59
V. *Of Scandal* 94
VI. *Of a Bond taken in the King's Name* 101
VII. *Of the Engagement* 107
VIII. *Of a Raſh Vow* 134

Imprimatur,

John Hall, R.P.D. Epiſc.
Lond. à Sac. Domeſtic.

May 30. 1665.

ERRATA.

PAge 5. line 7. read *not at all*, p.6. l. penult. dele *ſo long as*, p.15. l.12. r. *change*, p.2. l.ult. r.*with*, p.23. l.16. r. *ſhe*, ibid.l.22. r.*it is*, p.32.l.4. r. *unto*, p.42.l.24. dele *of*, p.43. l.10. r.*married*, p.45.l.21. r.*ſayings*, ibid. l.24. r. *muta*, p.51. l.7. r. *Premiſſes*. p.52. l.9. r.*to whom*, ibid.l.25.r.*ſhould*, p.53.l.23.r.*with all*, p.56.l.12.r.*haply*, p.57.l.23.r.*herſelf*. ibid. l.ult. r. *he*, p.67.l.3. r.*doth but*, p.72.l.12.r. *artis*, ibid. l. 17. r.*nearer*, p.84. l.19. r. *mediations*, p.86. l.11. r.*a Prince*, ibid.l.26.after *right*; add *belongeth to him*; *and another to* aſſume *a* power *that of right*, p.96. l.23. r. *or what means*, p.99. l.5. for *to* r. *do*, p.106. l.7. r.*whereunto*, p.107. l.ult.dele *in*, p.119.l.13. dele *to*, p.120.l.23.dele *the*, p.136. l.19. r.*maketh*, p.137. l.4. r.*parts*, p.141.l.21.r.*voideth*, p.142.l.6.r.*place*.

The Caſe of the Sabbath.

To My very Loving Friend Mr. Tho. Sa. *at* S. B. *Nottingh.* March 28. 1634.

SIR,

WHen by your former Letter, you deſired my preſent Reſolution in two Queſtions therein propoſed concerning the Sabbath: although I might not then ſatisfie your whole deſire (being loath to give in my opinion before I had well weighed it) yet that I might not ſeem altogether to decline the task impoſed on me by you, I engaged my ſelf by promiſe, within ſhort time, to ſend you what upon further conſideration I ſhould conceive thereof. Which promiſe, ſo far as my many diſtractions and occaſions would permit, I endeavoured to perform by peruſing the Books you ſent me, (in the one whereof, I found written on the ſpare paper with your hand, a Note moving a third Queſtion, about the Name of the Sabbath alſo;) and by

looking up, and reviewing such scattered Notes as I had touching that Subject. But then I met with difficulties so many and great (whereof the more I considered, the more still I found them to encrease) that I saw it would be a long work, and take up far more time then I could spare, to digest and enlarge what seemed needful to be said in the three Questions in such sort as was requisite, to give any tollerable satisfaction either to my self or others. Wherefore I was eftsoons minded to have excused my self by Letter to you, from farther medling with these Questions, and to have remitted you over for better satisfaction to those men, that have both better leisure to go about such a business, and better abilities to go through with it than I have; for to questions of importance, better nothing be said, than not enough: And the rather was I minded so to do, when I perceived there were rumors spread in these parts, (occasioned, as I verily suppose, by some speeches of your good friend Mr. *Tho. A.*) as if I were writing a Treatise of the morality of the Sabbath. Which besides that, it might raise an expectation of some great matters which I could in no wise answer; it might also expose that little I

should

should have done to the mis-censures of men wedded to their own opinions, if after I had laid mine open, it should have happened in any thing (as in some things like enough it would) to have disagreed from theirs. Yet, because by your late kind Letter, (wherein, whilst I was slack in making it, you have prevented mine excuse,) I perceive the continuance of your former desire; I have therefore since resolved to do somewhat, though not so much as I first intended, hoping that you will in friendly manner interpret my purpose therein. I have therefore now sent you but a naked summary of my thoughts concerning the three Questions, abstracted from all those Explanations, Reasons, Testimonies of Authors, removals of Objections, and other such Enlargements as might have given further both lustre and strength thereunto.

Howsoever, by what I presently send, you may sufficiently see what my opinion is; which I shall be ready to clear, so far as my understanding will serve, in any particular wherein you shall remain doubtful; and as ready to alter when any man shall instruct me better, if he bring good evidence either of Reason, or of Scripture-Text for

what he affirmeth: The Questions are,

1. Which is the fittest Name whereby to call the day of our Christian weekly-rest? whether the Sabbath, the Lord's-day, or Sunday?

2. What is the meaning of that Prayer appointed to be used in our Church; [*Lord have Mercy upon us, and encline, &c.*] as it is repeated after, and applied to the words of the fourth Commandment?

3. Whether it be lawful to use any bodily recreation upon the Lord's-day? and if so, then what kind of Recreations may be used?

I. Concerning the Name *Sabbatum*, or Sabbath, I thus conceive;

1. That in Scripture, Antiquity, and all Ecclesiastical Writers, it is constantly appropriated to the day of the Jews Sabbath, or Saturday; and not at all (till of late years) used to signifie our Lord's-day, or Sunday.

2. That to call Sunday, by the name of the Sabbath-day, (*rebus sic stantibus*) may for sundry respects be allowed in the Christian Church without any great inconveniency; and that therefore men (otherwise sober and

mode

moderate) ought not to be censured with too much severity, neither charged with Judaism, if sometimes they so speak.

3. That yet for sundry other respects it were perhaps much more expedient, if the word Sabbath (in that notion) were either not all, or else more sparingly used.

II. Concerning the name *Dominica*, or the Lord's-day:

1. That it was taken up in memory of our Lord Christ's Resurrection, and the great work of our Redemption accomplished therein.

2. That it hath warrant from the Scripture, (*Apoc.* 1. 10.) and hath been of long continued use in the Christian Church, to signifie the first day of the week, or Sunday.

III. Concerning the name *Dies Solis*, or Sunday.

1. That it is taken from the courses of the Planets, as the names of the other daies are: the reason whereof is to be learned from Astronomers.

2. That it hath been used generally, and of long time, in most parts of the World.

3. That it is not justly chargeable with Heathenism; and that it proceedeth from

much weakneſs at the leaſt, (if not rather ſuperſtition) that ſome men condemn the uſe of it, as prophane, heatheniſh, or unlawful.

IV. Of the fitneſs of the aforeſaid three names compared one with another.

1. That according to the ſeveral matter or occaſions of ſpeech, each of the three may be fitter in ſome reſpect, and more proper to be uſed than either of the other two; As, *viz.*

1. The Name *Sabbath*: when we ſpeak of a time of reſt *indeterminatè*, and in general, without reference to any particular day: and the other two, when we ſpeak determinately of that day which is obſerved in the Chriſtian Church. Of which two again.

2. That of the *Lord's-day* is fitter, in the Theological and Eccleſiaſtical; and,

3. That of *Sunday*, in the civil, popular, and common uſe.

2. Yet ſo as that none of the three be condemned as utterly unlawful, whatſoever the matter or occaſion be, but that every man be left to his Chriſtian liberty herein, ſo long as ſo long as ſuperior Authority doth not reſtrain it. Provided ever, that whe-

he

he doth herein, he do it without vanity or affectation in himself, or without uncharitably judging or despising his Brother that doth otherwise than himself doth.

To the second Question.

V. The words of that Prayer, [*Lord have mercy, &c.*] repeated after the fourth Commandment, do evidently import, as they do in each of the other ten.

1. An acknowledgment of three things, *viz.*

1. That the words of that particular Commandment contain in them a Law, whereunto we are subject.

2. That it is our bounden duty to endeavour with our uttermost power to keep the said Law.

3. That our naughty hearts have (of themselves) no inclination to keep it, until God, by the work of his Grace, shall encline them thereunto.

2. A double supplication, *viz.*

1. For mercy, in respect of the time past, because we have failed of our bounden duty heretofore.

2. For Grace, in respect of the time

to come, that we may perform our duties better hereafter.

VI. But how far forth the words of the fourth Commandment are to be taken as a Law binding Christians, and by what authority they have that binding power, is the main difficulty.

For the resolution whereof, it may suffice every sober minded Christian, to understand the Prayer appointed by the Church, in that meaning which the words do immediately import; and without over-curious inquiry into those things that are more disputable, to believe these few points following, which ought to be taken as certain and granted amongst Christians; *viz.*

1. That no part of the Law delivered by *Moses* to the Jews, doth bind Christians under the Gospel, as by vertue of that delivery; no, not the ten Commandments themselves, but least of all the fourth, which all confess to be (at least) in some part Ceremonial.

2. That the particular determination of the time to the seventh day of the week, was Ceremonial. And so the obligation of the fourth Commandment in that respect, (although it were *Juris divi-*

ni

ni positivi to the Jew, yet) is ceased together with other legal Ceremonies since the publishing of the Gospel, and bindeth not Christian Consciences.

3. That the substance of the fourth Commandment in the general, (*viz.* that some certain time should be set apart from secular imployments, to be sanctified to an holy rest, for the better attending upon God's publick and solemn worship) is moral and perpetual, and of Divine right, as a branch of the Law of Nature, whereunto Christians under the Gospel are still bound.

4. That *de facto*, the Lord's-day, or Sunday, is the time appointed to us for that purpose by such sufficient Authority, as we stand bound in Conscience to obey: *absq; hoc*, whether that Authority be immediately Divine, or but mediately through the power of the Church.

This is sufficient to regulate the judgment and Conscience of every ordinary Christian; yet is it not unlawful for Scholars (soberly and fairly) to argue and debate a little farther matters which are questionable, for the better finding out of the Truth.

And the points in this Argument that are

most

most in controversy, are these two, *viz.*

1. Concerning the observation of a weekly Sabbath; whether it be of necessity to keep one day of every seven? And by what right we are tied so to do?

2. Concerning the change of the Jewish Sabbath into the Lord's-day; and by what Authority it was done.

VII. As touching the observation of a weekly Sabbath; there are these three different opinions, *viz.*

1. That it is *de jure naturali*, as a branch properly of the Law of Nature.

2. That it is properly and directly *de jure divino positivo*; established by God's express positive Ordinance in his Word.

3. That it is meerly *de jure humano & Ecclesiastico*; introduced by Authority, and established by the custom and consent of the Catholick Church.

Touching which three opinions, I leave it to the judicious to consider.

1. Whether the last of them might not hap to be of evil consequence, by leaving it in the power of the Church, at her pleasure to change the old proportion of one in seven, (which hath continued ever since the daies of *Moses*) into any other greater or lesser proportion of time? 2. Whe-

2. Whether the two former opinions (though they do indeed avoid that inconvenience) do not yet stand upon such weak grounds otherwise, that they are by many degrees more improbable than the third?

3. Whether a fourth opinion going in a middle way, might not be proposed with greater probability, and entertained with better safety than any of the former three? *viz.* That the keeping holy of one day in seven, is of Divine positive right, taking *jus divinum* in a large signification: not for that only which is primarily, properly, and directly such, according to the tenor of the second opinion; but including withal that which is Secondarily, Consequently, and Analogically such.

VIII. For the better understanding whereof, we are to consider;

1. That those things are *de jure divino* in the first and strict sense: which either,

1. Are enjoyned by the express Ordinance and Commandment of God in his holy Word; or else,

2. May be deduced there-from by necessary, evident, and demonstrative illation.

In which sense, there are not many things

de

de jure divino under the New Testament.

2. That for a thing to be *de jure divino* in the latter and larger sense, it sufficeth that it may be by humane Discourse upon reasons of Congruity probably deduced from the Word of God, as a thing most convenient to be observed by all such as desire unfeignedly to order their waies according to God's holy Will.

3. That this kind of *Jus divinum* may be reasonably discerned by the concurrence of all, or the chiefest of these four things following, *viz.*

1. A foundation of Equity for the thing in general, either in the Law of Nature, or by vertue of Divine Institution.

2. An Analogie held for the particular determination, with such Laws and directions as were given to the Jewish people in the Old Testament, so far as the reason of Equity holdeth alike.

3. Some probable insinuations thereof in the Scriptures of the New Testament.

4. The continued practise of the Christian Church, so far as the condition of the times in the several Ages thereof would permit. For, *Lex currit cum praxi.*

4. That

4. That all these do in some measure concur for the observation of a weekly Sabbath; as upon the examination of the several particulars will easily appear.

IX. This distinction of *Jus divinum* is to be observed the rather, because it may be of very good use, (if rightly understood and applied.)

1. For cutting off the most material instances, which are usually brought by the Romish Party for the maintenance of their unwritten Traditions.

2. For the clearing of some, and the silencing of other some Controversies in the Church, which are disputed *pro* and *con* with much heat; as, *viz.* concerning,

1. The Government of the Church by Bishops.

2. The Distinction of Bishops, Priests and Deacons.

3. The Exercise of Ecclesiastical Censures, as Suspension, Excommunication, *&c.*

4. The Building and Consecrating of Churches for the service of God.

5. The assembling of Synods upon needful occasions, for the maintenance of the Truth, and for the setling of Church Affairs.

The

6. The forbidding of Marriages to be made within certain degrees of Consanguinity and Affinity.

7. The Baptizing of Infants born of Christian Parents.

8. The maintenance of the Clergy by the Tithes of the people, and sundry other things: none of all which (to my understanding) seem to be *de jure divino* in that first and proper sense; but yet all (or most) of them to be *de jure divino* in this latter and larger signification.

3. For the right bounding of the Churches power, that she be neither denied her lawful liberty in some things, nor yet assume to her self a greater power than of right belongeth unto her in other some. For,

1. In things that are meerly *de jure humano*; every particular Church hath power in her self from time to time, to order, and alter them at her pleasure, and may exercise that power when she thinketh fit.

2. Things that are *de jure divino* in that firft sense, the Universal Church may not (and much less then may any particular) at all take upon her to alter, but must observe them inviolably, whatsoever neces-

ceſſities or diſtreſſes ſhe be put unto.

3. Things that are *de jure divino* in this latter ſenſe; every particular Church (but much more the Univerſal) hath a power to alter in a caſe of neceſſity: But the exerciſe of that Power is ſo limited to extraordinary caſes, that it may not be ſafe for her at all to exerciſe it; unleſs it be for the avoiding of mighty inconveniences, not otherwiſe to be avoided.

X. As for the other controverſed Point, touching the charge of the day, from the laſt day of the week, or Saturday, (which was the Jews Sabbath) to the firſt day of the week, or Sunday, which is our Lord's-day: My opinion is, that the obſervation of the Lord's-day among Chriſtians inſtead of the Jewiſh Sabbath,

1. Is not grounded upon any commandment given by Chriſt to his Apoſtles.

2. Nor yet upon any Apoſtolical Conſtitution given by the Apoſtles unto the Churches in that behalf. But,

3. That it was taken up by the ſucceeding Church; partly in imitation of ſome of the Apoſtles, who uſed (eſpecially in the Churches of the Gentiles; for in the Churches of *Judea* the old Sabbath was ſtill obſerved)

ſerved) to Celebrate their Holy Aſſemblies upon the firſt day of the week, in the honour of Chriſt and his Reſurrection; and partly for the avoiding of Judaiſm, wherewith falſe Teachers in thoſe firſt times were ever and anon attempting to enthral the Chriſtian Church.

4. That the obſervation of the Lord's-day, having been confirmed by ſo many Conſtitutions both Eccleſiaſtical and Imperial, and having withal continued with ſuch uniform conſent throughout the whole Chriſtian World, for ſo many Ages ever ſince the Apoſtles times; the Church (not to diſpute what ſhe may or may not do *in plenitudine poteſtatis*, yet) ought not to attempt the altering of it to any other day of the week.

To the third Queſtion.

XI. In this matter touching Recreations to be uſed on the Lord's-day, much need not be ſaid, there being little difficulty in it, and His Majeſties laſt Declaration in that behalf having put it paſt Diſputation. I ſay then,

1. *For the Thing.* That no man can reaſonably condemn the moderate uſe of lawful

ful Recreations upon the Lord's-day, as simply, and *de toto genere* unlawful.

2. *For the Kind.* Albeit there can be no certain rules given herein, (as in most indifferent things it cometh to pass) by reason of the infinite variety of circumstances, to fit with all particular cases, but that still much must be left to private discretion: yet for some directions in this matter, respect would be had in the choice of our Recreations.

1. To the Publick Laws of the State. Such games or sports as are by Law prohibited, (though in themselves otherwise lawful) being unlawful to them that are under the obedience of the Law.

2. To the condition of the Person. VValking and discoursing with men of liberal Education, is a pleasant recreation; it is no way delightsom to the ruder sort of people, who scarce account any thing a sport which is not loud and boysterous.

3. To the effects of the Recreations themselves. Those being the meetest to be used, which give the best refreshing to the body, and leave the least impression in the mind. In which respect, Shooting, Leaping, Pitching the Bar, Stool-ball, &c.

are rather to be chosen than Dicing, Carding, *&c.*

3. For *the Use.* That men would be exhorted to use their Recreations and Pastimes upon the Lord's-day in godly and commendable sort. For which purpose, amongst others, these cautions following would be remembred.

1. That they be used with great moderation (as at all other times, so especially, and much more) upon the Lord's-day.

2. That they be used at seasonable times, not in time of Divine Service, nor at such hours as are appointed by the Master of the house whereunto they belong, for Private Devotions within his own house. His Majesties Declaration limiteth mens liberty this way, till after Even-song be ended.

3. That they be so used, as that they may rather make men the fitter for God's Service the rest of the day, and for the works of their Vocations the rest of the week, than any way hinder or disable them thereunto, by over-wearying the body, or immoderately affecting the mind.

4. That

4. That they use them not doubtingly, for whatsoever is not of Faith, is sin. He therefore that is not satisfied in his own judgment, that he may lawfully, and without sin, use bodily recreations on the Lord's-day, ought by all means to forbear the use thereof, lest he should sin against his own Conscience.

5. That they be severer towards themselves than towards other men in the use of their Christian liberty herein, not making their own opinion or practise a rule to their brethren. In this, as in all indifferent things, a wise and charitable man will in godly wisdom deny himself many times the use of that liberty, which in godly charity he dare not deny to his Brother.

The CASE of

Marrying with a Recuſant.

SIR,

YOurs of *July* the 2d. I Yeſterday *July* the 6th. received. In Anſwer to the Contents whereof (deſiring that my Services may withal be moſt humbly preſented to my very much Honoured Lord) I return you what my preſent thoughts are concerning the particulars therein propoſed. *Firſt*, for Marrying a Daughter to a profeſſed *Papiſt* (conſidered in *Theſi*, and as to the point of Lawfulneſs only) I am ſo far from thinking the thing in it ſelf to be ſimply, and *toto genere*, unlawful; that I dare not condemn the Marriage of a *Chriſtian* with a *Pagan* (much leſs with any other *Chriſtian*, of how different Perſwaſion ſoever) as ſimply evil and unlawful, inaſmuch as there be Cauſes imaginable, wherein it may ſeem not only Lawful, but expedient alſo, and (as the exigence of Circumſtances may be ſuppoſed) little leſs than neceſſary ſo to inter-marry. But ſince things lawful in the General, and

in *Thesi*, may become (by reason of their inexpediency) unlawful *pro hic & nunc*, and in *Hypothesi* to particular persons; and that the expediency or inexpediency of any action to be done, is to be measured by the worthiness of the end, the conjuncture of present Circumstances, and the probability of good or evil consequents and effects, prudentially laid together, and weighed one against another; I conceive it altogether unsafe for a Conscientious person (especially in a business of so great concernment, as the Marrying of a Child) to proceed upon the General Lawfulness of the thing, without due consideration of Circumstances, and other requisites for the warranting of particular Actions. Now, as for the Marriage of a Daughter with one of so different Perswasion (in point of Religion) as, that they cannot joyn together in the same way of God's Worship, which is the case of a Protestant and a Papist, it is very rare to find such a concurrence of Circumstances, as that a man can thence be clearly satisfied in his Judgment (without just cause of doubting the contrary) that it can be expedient to conclude upon such a Marriage; and how dangerous a thing it is to do any thing with-

out a *doubting Conscience*, we may *learn* from *Rom.* 14. 13.. For the *evil consequents* probably to ensue upon such Marriages, are so many and great, that the conveniences which men may promise to themselves from the same (if they should answer expectation, as seldom they do to the full) laid in an equal ballance there-against, would not turn the scale; and in one respect the danger is greater to marry with a Papist, than with one of a worse Religion; for that the main Principle of his Religion, (as a *Papist*) is more destructive of the comfort of a Conjugal Society, than are the Principles of most Hereticks; yea, than those of *Pagans*, or *Atheists*; for holding that there is no Salvability but in the Church; and that none is in the Church, but such as acknowledg Subjection to the See of *Rome*; it is not possible, but that the Husband must needs conclude his Wife to be in the *state of Damnation*, so long as she continueth *Protestant*: whence one of these two great inconveniences will unavoidably follow; that either he will use all endeavors, engins, and artifices, to draw her to the Church of *Rome*, (as indeed who can blame him to bring his Wife into a capacity of everlasting Salvation?) the restless

less importunity whereof (together with the ill advantages they of that party can make from the sad Confusions that are amongst us in these times) it will be very hard for one of the weaker sex perpetually to resist; or else in case she stand firm in her Religion against all Assaults and Attempts to the contrary, whatsoever he may be towards her in outward carriage, he cannot but in his inmost thoughts, pass judgment upon her, as an obstinate and desperate Heretick, and (so living and dying) an accursed and damned Creature. These are sad things both; and it is not conceivable how a Woman so matched should live with any comfort, or ever hope to see a good day, wherein he shall not either be tempted from her Religion, or censured for it; what assurance can she have of his good affections towards her, who is bound not to permit any better opinion of her, than of a Reprobate and Cast-a-way? Is it possible there may be so much good nature in the Husband, as to take off somewhat from that rigidness, which otherwise the Principles of his Religion would bind him to, or so much discretion, sweetness, and obligingness in the Wives demeanor towards him, as to preserve a

good meaſure of Conjugal Affection between them, notwithſtanding their different Perſwaſions: This I ſay, is poſſible; and where it happeneth ſo to be, it rendereth the condition of the Parties ſo much the leſs uncomfortable; and that is the utmoſt of the *happineſs* that is to be hoped for from ſuch Marriages: and I think there cannot be produced many examples thereof; yet even there, there cannot be that cordial Affection, and fulneſs of Complacency (wherein yet the chiefeſt happineſs of Conjugal Society conſiſteth) that would be, if the ſame Parties (ſuppoſed to be of the ſame Qualifications otherwiſe) were alſo of the ſame Religion. I omit other *œconomical* differences, that may, and very frequently do (occaſionally) ariſe, betwixt Husband and Wife from this difference in Religion, as concerning the Entertainment of Friends, the choice of Servants, the education of Children (very conſiderable things all) beſides ſundry others perhaps of leſs moment; yet ſuch as are apt to breed Diſcontents and Jealouſies, and ſometimes break out into great Diſtempers in the Family: Such Marriages therefore I ſhould utterly diſſwade; eſpecially in the *Nobility*, *Gentry*, and *Commonalty*,

nalty, where there is choiſe enough otherwiſe to be had of Perſons of equal Degree, Eſtate, and Education of the ſame Religion to match withal: Kings and Princes for reaſons of State, and becauſe there is little choice of Perſons of equal Dignity with themſelves, are therefore oftentimes by a kind of neceſſity, put upon ſuch Marriages; yet even there, where they are certainly the moſt excuſable, it hath been obſerved, that ſuch Marriages have proved for the moſt part unfortunate.

The other Particular propoſed in your Letter, is concerning the *Marriage of a Daughter to one that profeſſeth the Proteſtant Religion, but having had Popiſh Parents, may be ſuſpected (though he deny it) to be that way inclined.* The reſolution whereof (as of moſt other *Caſes*, and *Practical Queſtions*) will depend very much upon the conſideration of *Circumſtances*, whereunto being altogether a ſtranger, I am leſs able to give Judgment in the Caſe with any certainty; only in order to the reſolution of the queſtion, theſe (to my underſtanding) ſeem to be the moſt proper and important Enquiries.

Firſt, whether the Parents of the young Perſon be living or no, one or both? if both be

be dead, the *Temptations* from them (which in such *Cases* are wont to prevail very much) are by their Death clearly *superseded*; and then the danger is by so much less: but if either be living, there can be little security of the Sons *continuance* in the *Protestants Belief*, (notwithstanding his present Profession thereof) when he shall be *assaulted* with the *whole Authority* of them, to whom he oweth *Reverence*.

Secondly, with what degree of *Confidence*, and with what kind of *asseverations* he *professeth* the *one*, and *denieth* the *other Religion*; for although they out of *design* put on a counterfeit vizor, use all the art they can to *dissemble it*; yet very seldom can it be done so *cunningly*, *warily*, and *constantly*, but that at some time or other, the *dissimulation* will unawares bewray it self to the *eye* of a *curious observer*.

Thirdly, what measure of understanding the young Person (who is, you say, of *great Abilities* for his Age) hath in the *Fundamental Articles* of the *Christian Religion*; those I mean, wherein the *English* and *Romish Churches* are at *agreement*, for in *those* the *substance* of *Christianity consisteth*; he that rightly understands those *Catholick Truths* taught in the

the *Catechisms* of both Churches, and concerning which all *Christendom* (in a manner) are at a *perfect accord*; and then will but suffer himself to consider, that the *Church* of *England* doth not *impose* upon the *judgments* and *consciences* of her *Members*, any thing to be *believed*, or received, as of *necessity* to *Salvation*, than what is *truly Catholick*, and by her Adversaries confessed so to be; and consequently, that the *difference* betwixt *her* and the *Romish Party*, is wholly about those *Additionals* or *Superstructures*, which they of the *Roman Faith* require to be *believed*, and *received* with like *necessity* as the *former*; but appear to us of this *Church respectively*, either *evidently false*, or of *doubtful truth*, or not of *absolute necessity* to be *believed*: I say, whosoever well considereth this, may rest *satisfied* in his *judgment* and *conscience*, that the *Faith taught* and *professed* in the *Church* of *England*, is a *plain* and *safe way* to lead a *Christian Believer* to *Eternal Salvation*, if he withal lead his *life* and *conversation* answerable thereunto.

To the last particular in your Letter, all the return I have to make, is no more but an humble acknowledgment and sense of his *Lordships* noble favors towards me, in entertaining

taining an opinion of me more ſuitable to his own goodneſs and ingenuity, than to my merit: I know not, nor deſire to know of any occaſions likely to draw me into thoſe parts ſo diſtant from me (being grown into years, and infirmities, that render me very unfit for long Journeys) unleſs the buſineſs of my *Sons Marriage*, which occaſion'd my late Journey to *London*, require a ſecond thither in *Michaelmas Term*. But I am ſo ſenſible both of the trouble and charge of ſuch Journeys (beſides ſome inconveniences to my affairs at home, whilſt I am long abſent) that I will avoid it, unleſs there be no other remedy: I ſhall not *willingly decline* any employment (within my low and narrow ſphere, both of outward condition and parts) wherein my *ſervice* may be any waies *uſeful*, or but *acceptable*, to that *noble* and *excellent Perſon*: but truly Sir, I conceive there will be little need of my further *endeavors*, as to that particular expreſſed in yours, whether what I have written now, give *ſatisfaction*, or *not*; there are *perſons* nearer hand, whom I know to be *much fitter* for an *employment* of that *nature*, than *my ſelf*, who have ever ſtudied *Peace* more than *Controverſies*; and namely, one at the next door to *Hatton-*

Houſe,

House, whose *sufficiency* and *readiness* in that kind is well known to Mr. *Geoffery Palmer*. Sir, I wish you *Happiness*, desire your *Prayers*, and rest,

July, 7. 1656. *Your Faithful and*

Humble Servant,

The

The CASE of UNLAWFUL LOVE.

TWO Gentlemen who were very good Friends, and both of them Married, used to converse together familiarly; one of these took a special liking in the company and conversation of the others Wife, and she answerably in his; which afterwards proceeded to some degree of Love; which, though ever restrained, and preserved without any violation of Chastity, grew yet in the end to this issue, that they mutually vowed either to other; that if happily either of them should at any time be freed from the Bond of Matrimony (either he by the death of his Wife, or she by the death of her Husband) that party so freed should continue afterwards unmarried, and stay for the other, till the other should be freed also, though it were during life: Now so it is, that this Gentlewomans Husband died, and her affections and resolution so altered, that gladly she would Marry, if she might be released of the Engagement of that Vow; or perswaded of the unlawfulness or nullity thereof.

Con-

Concerning the present Case, as it is propounded, sundry Points are needful to be resolved, that so we give a right judgment *de præterito*, of what is already done for the time past, in respect of the Gentlewomans *former promise*, and sound direction also *de futuro*, which is further to be done for the time to come, in respect of her present distresses.

Point I.

Sect. 1. First of all, It is considerable, whether the promise made by the Gentlewoman and her friend, were properly a Vow or no? so it is called in the proposal of the present *Case*, and that agreeable to the common use of speech with us here in *England*, who extend the word [*Vow*] very far; neither shall I make scruple in the ensuing *Discourse*, sometimes to call it so; for *Loquendum ut Vulgus*. But to speak properly, a *Vow* is a word of a narrower extent than a *Promise*, every *Vow* being indeed a *Promise*, but not every *Promise* necessarily a *Vow*; (a) *Promises* may be made *indifferently*, either to *God*, or *Men*; but *Promises* made to *Men* are no *Vows*:

(a) *Votum soli Deo fit, sed Promissio potest fieri etiam Homini.* Aquit. 2. 2. q. 88. 5. ad. 3.

where-

wherefore it is usually inserted into the definition of a *Vow*, as a condition (*b*) *essentially requisite* thereunto, that it be made unto *God* alone, insomuch as to make a *Vow* to any Creature, is *interpretative* to exalt the Creature into the place of God, and so to make it an *Idol*, which is clear, not only from the (*c*) *express Precept* of *God*, and the *constant* (d) *examples* of *godly men*, and the *usual* (e) *phrases* of the *Holy Ghost* in the *Scriptures*; but also from the *universal consent* of all *learned men*, both *Divines* and *others*, and even of (f) *Heathens* also: This Gentlewomans *promise* then being made to the Gentleman her Friend *alone*, as was his also to her, and neither of both to God, is therefore to be taken for a *meer Promise*, but no *Vow*.

(b) *Promissio Deo facta est essentia voti*, Ibid.

(c) Psal. 76. 11.

(d) Numb. 21. 2. Judg. 11. 30. 1 Sam. 11. 25.

(e) Judg. 11. 36. Psal. 56. 11.

(f) *Sponsio quâ obligamur Deo.* Cic. 2. Leg.

Sect. 2. If for more confirmation thereof, she bound her self also by *Oath*, as it is not unlike, yet it is no more for all that but a *meer promise* still, and not a *Vow*; for albeit the very using of an Oath be a *calling in of* God

God into a busineſs, and the *perſon* that taketh an *Oath* doth thereby ſet himſelf in the *preſence of God*; yet an *Oath* calleth him in only to be (a) a *witneſs*, without any intent to make him a *party* to the *buſineſs*, whereas in a *Vow* he is made a *party*, and not only a *witneſs*; whereunto agree thoſe forms ſo frequent in *holy Scripture*, in Oaths both *aſſertory*, and *ſtipulatory*; (b) *The Lord be witneſs between us*: (c) *God is my witneſs*: (d) *I take God to Record*, and the like: for even as when a *promiſe* is made unto God, whereunto for the more *ſolemnity*, the *preſence* of ſome men is required as *Witneſſes*, ſuch a *Promiſe* is to be held for a *Vow*, becauſe it is made to God *alone*, although in the *preſence* of Men: So on the other ſide, when a *Promiſe* is made unto *ſome Man*, whereunto for the *more aſſurance*, the *preſence* of God is required as a *witneſs*, ſuch a *Promiſe* is not to be held for a *Vow*, becauſe it is made unto Man *alone*, although in the *preſence* of God.

(a) *Jurare nihil eſt aliud quàm Deum Teſtem invocare.* Aq. 2. 2. qu. 89. 1. ex *Aug. de ver. Apoſt. Serm. R.* 28. *quod affirmas, ſi Deo Teſte promiſeris, id tenendum eſt*, Cic. 3. de Offic.

(b) Gen. 31. 50. Judges 11. 10. Mal. 2. 14. (c) Rom. 1. 9. 1. Theſ. 1. 5. (d) 1 Cor. 1. 23. Phil. 1. 28.

Sect. 3. Nay further, if the Gentlewoman when she thus *engaged* her self, did use these very words [*I VOW TO GOD*] or words to that effect, as we know is often done in *solemn Promises* between man and man; yet neither is that sufficient to make it properly a *Vow*; for to judg rightly when question is made concerning any particular *promise*, whether it be a *Vow* yea or no; we are not to be guided so much by the *forms* of *speech*, (which are subject to change, impropriety, and many defects) as by the true intention and purpose of the *parties*, especially the *Promiser*. Now, what was the whole *intent* and *purpose* of these *Parties*, when they mutually bound themselves in such sort, as in the *Case propounded* is laid down, no reasonable man can be ignorant; even this and no other, to give as good *assurance* as they could *devise*, either to other, and to receive the like *assurance* again, that the *thing* by them *agreed on*, and *promised*, should be *faithfully performed*; and if either *Oaths* or *Protestations* were also *used* by way of *Confirmation*, they are all in *common intendment* to be taken as *tending* to the *self-same purpose*, without looking at any further thing; & clearly where the *Promiser* hath no intention to *bind* himself

self to *God*, but to *Man* only, the *Promise* so made is no *Vow*, whatsoever *formality of words* may be used in the making of it.

Sect. 4. Neither is the *examination* of this Point a *curiosity* either in it *self fruitless*, or *impertinent* to the *Case in hand*; for albeit, in that which seemeth to be the very *main point* of all, *viz. the power of binding the Conscience*, there be no *material difference* between a *Vow*, and an *ordinary Promise*; a *lawful Promise* no less *binding* unto performance, than a *lawful Vow*; and an *unlawful Vow* no more *binding* than an *unlawful Promise*: yet there is some *difference* between them, and that of *some importance too*, in respect of the *relaxation* of that *Bond*; for since it belongeth to *him* to whom a *bond* is made, to grant a *release* thereof: It belongeth therefore to *God alone* to *release* the *obligation* of a *Vow*; and no man hath power so to do, because the *Vower* by his *Vow*, bindeth himself to *God*, not to *Man*; whereas the *obligation* of a *meer Promise*, wherein the *Promiser* bindeth himself but to *some Man*, may be *released* by *that Man*; and a *release* from him is to the *conscience* of the *Promiser* a *sufficient discharge* from the said *obligation*: which Consideration of what *use* it will be in the

present Case, will in the due place further appear. In the mean time we have *evidently proved*, that this Gentlewoman *bound her self* by *Promise* only, and not by *Vow*.

Point II.

Sect. 5. We are next to enquire concerning the *validity* thereof, whether or no the Gentlewoman (a) *having an Husband* at that time, were so *disabled* in that *respect* from making such a *promise*, that the *promise* then made by her, without the *Husbands consent*, was *utterly void* from the very beginning: For the Wife is under (b) *the Law*, and (c) *under the power of her Husband*, and so is not *sui juris*, nor can bind her self by *Vow*, *Oath*, *Promise*, or otherwise, without the *privity* and *consent* of her *Husband*; which consent we may presume this Gentlewoman never had, the *promise* being of that *nature*, that it had been not only *immodesty*, but even *madness*, at all to have sought it. And it is certain from the (d) *Law of God*, by *Moses* (to the equity whereof

ὑπανδρος γυνή.

(a) Rom. 7. 2.

(b) Rom. 7 2.

(c) 1 Cor. 7. 4.

(d) Numb. 30. 3.

whereof *Christians* are still bound, because it's founded upon *right Reason*, and the *light of Nature*) that every *Vow* and *Promise* made by a *person* that of *right* hath not *power* to make it, is *de jure nullum*, altogether void from the first instant, and *bindeth* the Party no more than if it never had been made.

Sect. 6. If any *Scruple* shall arise from this *Consideration*, that albeit the *promise* made by the *Wife* in her *Husbands* life-time, *bind* her, not without his *consent*, so long as he liveth, because she is all that while under his *power*; yet after that she is *loosed* from the *law of her Husband*, by his *death*, it shall thenceforth *bind* her, because she then becometh *sui juris*: I say, this maketh no *difference* at all in the *Case*; for this is a *general Rule*, that *what* (b) *act soever had a nullity in it at the first, when it was done, cannot by any succeeding tract of time grow to be of force.* As if a young Scholar shall be *instituted* to a *Benefice*, being not of *lawful years*; or a young *Heir* make a *sale* of his *Lands* during *minority*, the *institution* and the *sale*, as they were both *void* at the *beginning*, so they shall continue *void*,

(b) *Quod initio vitiosum est, non potest tractu temporis convalescere*, L. 29. *F. de Div. Reg. ju.*

as well after the *Clerk* is of *lawful years*, and the *Heir* at full *age*, as before; so that to judg of the *validity* of any *Vow*, *Promise*, or *Covenant*, respect must be had to (c) that *very time* wherein it was *made*, and to the *present condition* of the *person* at that *time*, and not to any *time* or *condition before* or *after*: If then there were indeed a *nullity* in this Gentlewomans *Vow*, at the *time* when she *made it*, there is a *nullity* in it still; and if it were indeed of no force to *bind* her *then*, neither is it of any force to *bind* her *now*.

(c) *In stipulationibus id tempus spectatur quo contrahimus.* L. 18. F. *eodem.*

Sect. 7. But after due pondering of the *matter*, I rather think, that there was not a *nullity* in the *promise* at the *first*, neither (supposing it had been rightly *qualified* in other respects) was it *void* upon this *ground*; because although she were not *sui juris absolutè*, it is sufficient yet, that she was so *quantum ad hoc*. For a *person* that is under the *power* of another, hath yet *power of himself*, (and so is *sui juris*) to *dispose* of all such things, as by the *free disposal* whereof, the *proper right* of him, under whose *power* he is, is no way *prejudiced*; but in whatsoever may be *prejudicial* to the *other* in any of his *Rights*, he is

juris

juris alieni: neither may *dispose* thereof without the *others consent*; and if such a *person* shall make a *Vow*, or other *Promise* concerning any of those things wherein he is *sui juris*, such *vow* or *promise* shall *stand good*, and is not *void* (though possibly it may be *vitious* in other respects) from the *inability* of the *person* that *maketh it*: As for example, if a *Servant* shall promise to his *own Father*, to *work* with him a day or two in *Harvest*, this *promise*, unless his Master *consent* thereunto, shall be *void*, because the *Master* hath a *right* in the *Servants work*, to which *right* it would be *prejudicial*, if the *Servant* should *dispose* thereof after his own *pleasure*; but if such a *Servant* shall *promise* unto his *needy Father* to *relieve* him from time to time with a *third* or *fourth part* of all such *wages* as he shall receive for his service, this *promise* shall be *good of it self*; neither shall the *Masters consent* be requisite to make it so, because the *Master* hath no right at all in the *Servants wages*; wherein to be *prejudiced* by the *Servants disposing thereof* according to his own mind: Now, forasmuch as the *Husbands right* and *power* over the *Wife ceaseth* together with his *life*, (as the Apostle (a) expresly teacheth) and so

(a) Rom. 7. 23.

cannot be *prejudiced* by any *act* of the *Wife* done after his *Decease*; It is manifest that the Wife is *sui juris* to make a *vow* or *promise* during her *Husbands life-time*, concerning something to be done after his *decease*, in case she *over-live* him, because his *right* will be *expired* before the *performance* of the said *vow* or *promise* be due; as to give instance in a Case not much unlike to this in question: A Wife *estated* upon her Marriage in a *Joynture* or *Annuity* for her life of an 100*l.* *per Annum*, maketh a *promise* in her Husbands *life-time* to one of her *younger Brothers*, that hath but short Means to allow him thence forward out of the said Estate, 10*l.* yearly toward his better Maintenance; this *promise* is *void* unless the *Husband consent*, because the performance thereof would prejudice him in that right which he hath during his own life in the *Revenue* of all the *Lands* and *Annuities* estated upon the Wife in *Reversion*; but if such a Wife shall promise to her said Brother to allow him the said yearly sum of 10*l.* after the decease of her Husband, in case she survive him, this promise is good, though made by the Wife in her Husbands *life-time*, and without his consent, because the Husbands right, (being to

cease

ceaſe before the Promiſe is to be performed) cannot be prejudiced by the performance thereof: And this I find agreeable to the *beſt Caſuiſts*, whoſe peremptory opinion it is, that (b) *Husbands and Maſters cannot diſannul ſuch* Vows *as their Wives and Servants make concerning things to be performed at ſuch times as they ſhall be from under their power.* Which *poſition*, if it be true (and I yet ſee no reaſon why it ſhould not) then doubtleſs this Gentlewomans *Vow* made to *her Friend*, though in the *life-time*, and without the *conſent* of her Husband, was not *originally void* from the inability to make it, upon this reſpect, that ſhe was not *ſui juris* ſo to do.

(b) *Vota uxorum vel ſervorum exequenda illo tempore quo fuerint ſui juris, mariti vel domini non poſſunt irritare.* Nav. Man. Num. 65. *& alios.*

Point III.

Sect. 8. But though I dare not ſay, neither do I think that there was a *nullity* in it, in reſpect of the perſon, to make it *void* that way; yet it cannot be denied, but there was much *obliquity* in it, in reſpect of the matter, to make it otherwiſe *utterly* unlawful: in which Point much need not be ſaid, becauſe

becauſe the truth thereof will ſoon appear; for there was in it manifeſtly a *threefold obliquity*, and thereby alſo a *breach* of three ſeveral Commandments. The firſt obliquity was in reſpect of the unlawful affection from which it proceeded; which being placed upon another than the Husband, and that in ſuch an high degree, as to produce a promiſe of this kind, muſt needs be *vitious*, both for the *object*, and for the meaſure, and ſuch inordinate affection by the Analogy of our Saviours (*a*) expreſſion of the Law, is a violation of the Chaſtity of the heart, and ſo a breach of the Seventh Commandment. The ſecond *obliquity* was, the want of that true *Conjugal love* which ought to be between Husband and Wife, who ought to have a *mutual* (b) complacency and delight the one in the other, and to be (c) ſatisfied at all times with the Love, Comfort, and Society of the one of the other; which Love, if it had been ſo throughly rooted and ſeated in the Gentlewomans heart, as it ought to have been, would have *cruſhed* all motions of *unlawful affection* towards

(a) Mat. 5. 28.

(b) Prov. 5. 18. Eccleſ. 9. 9.

(c) Prov 5. 19.

a

a Stranger in the *shell*, long before they could grow to such strong Resolutions, as by the making of this *Vow* it appeareth they did; for it is not to be imagined that such a *vow* as this could be made, and really intended to be performed, but we must needs suppose in the parties so *vowing*, a kind of weariness at the least, if not rather some inward loathing of the present *Yoak*; which being contrary to that honour that martyred persons owe to their yoak-fellows, is so a breach of the Fifth Commandment: A third *obliquity* there was also as a breach of the Tenth Commandment, against those expres words [*Thou shalt not covet thy Neighbours Wife*] every Man and Woman being to *content* themselves with that *lot*, which, by Gods Providence hath befallen them, as in all other things, so especially in that which is of the greatest weight, the lot of Marriage, without coveting or lusting after that which it hath pleased the Wisdom of God already to dispose upon another; this Gentlewomans promise then being such, as (if it should be brought to an impartial Trial before that Tribunal which God hath erected in every ones Conscience, and according to the tenor of that Divine Law, whereof no Chri-

Chriſtian ſhould be ignorant) could not be reaſonably acquitted from any one of theſe ſinful *Obliquities*, but not poſſibly from them all, we may conclude to have been an Act utterly unlawful.

Point IV.

Sect. 9. But becauſe a Man may contract an *Obligation* by an *act* not free from *Obliquity*, as the ſaying in ſuch Caſes is, [*Fieri non debet, factum valet,*] and we have a *Ruled caſe* for it in the *Covenant*, which the *Princes* of *Iſrael* made with the *Gibeonites*, which though (b) *ſinfully made* at the firſt, was (c) neceſſarily to be kept afterwards: We are therefore to enquire into a *Fourth Point*, Whether the Gentlewoman having *de facto* bound her ſelf by ſuch an *unlawful promiſe*, be ſtill, by virtue of the ſaid *promiſe*, bound in *Conſcience* to the performance thereof, or not? To anſwer directly to the Point, *I take it, ſhe is not bound thereunto*; for that ſaying [*Fieri non debet, factum valet*] hath place only there, where the *obliquity* that maketh the *act unlawful*, may be ſevered from the ſubſtance of the *matter*, about which the act

(b) Joſh. 9. 14, &c.
(c) *Ibid.* ver. 19. 2 Sam. 21. 1, 2.

is

is converſant; as when a man *voweth* to do ſomething, which is not in it ſelf, and for the ſubſtance of the matter *ſimply unlawful* to be done; but yet *voweth* it, either raſhly, and without due advertiſement, or for ſome indirect and unwarrantable end, or upon ſlight and inſufficient inducements, or the like, any of theſe *Obliquities* are enough to make the *vow unlawful*, in reſpect of the act of *vowing*; yet becauſe theſe *Obliquities* do not neceſſarily paſs upon the matter it ſelf, or the thing *vowed*, but may be ſevered from it; therefore, though the *act* of *vowing* were ſinful, the *Vow* it ſelf for all that may ſtand good, and bind the Party to performance; but where the *ſinful obliquity* paſſeth upon the ſubſtance of the matter, or adhereth inſeparably thereunto; there not only the act of vowing is ſinful, but the *performance* alſo becometh unlawful: In which *Caſes* thoſe other ſaying ought rather to have place, *Juramentum non debet eſſe vinculum iniquitatis, in malis promiſſis reſcinde fidem, in turpi voto ma a decretum*, &c.

Sect. 10. If it ſhall be ſaid, that this difference being admitted, will nothing avail the Gentlewoman in our preſent Caſe, to free her from the *obligation* of her ſaid *promiſe*;

mise; because here the *matter* of *promise* seemeth not to be in it self *unlawful*, especially on her part; for if the Gentleman her Friend, were presently free from the Bond of Matrimony by the death of his Wife, as the Gentlewoman now is by the death of her Husband, they might perform what they had promised either to other, by joyning themselves in Matrimony, and that without sin, which is an argument that the *sinful obliquity* was only in the act of promising; which therefore they ought to repent of: but doth not cleave to the matter of the promise, which therefore they ought not to *violate*. To this I answer, what in my opinion is true, That if both the Parties were now actually free from the Marriage bond, they not only *lawfully* might, but were in Conscience bound (unless some other lawful impediment should hinder) to joyn themselves together in *Matrimony*, because none of the fore-mentioned *Obliquities*, which made the former act of promising unlawful, would fall upon the after-*act* of *Marriage* to make it unlawful. But that *Allegation* is not direct to the Point in hand, nor to the Case as it is propounded; for it may be observed from the very form of the proposal,

poſal, that the matter of the promiſe, wherein the Parties interchangeably bound themſelves, was not to *Marry* together, when they ſhould be both free; upon which falſe ground the Objection runneth; that was indeed the thing they aimed at therein; but the end is one thing, and the matter another: but the very matter of the promiſe was, the continuance of their mutual affection either to other, with a reſolution to ſtay the one for the other, when either Party ſhould happen to be free from the bond of the preſent Matrimony, till the other ſhould be alſo free. The continuance of which *affection* and reſolution, will upon examination be found ſubject to all, or ſome of the three *Obliquities* aforeſaid; and therefore as ſuch an affection and reſolution, could not be entertained at the firſt without ſin; ſo neither can they be now continued in without ſin; for ſo long as they continue, the firſt of the ſaid *Obliquities* remaineth ſtill, both on his part and hers; the ſecond indeed by the death of the Husband is ceaſed on her part, but remaineth ſtill on his, and the third contrarily being on his part ceaſed, remaineth ſtill on hers, as will evidently appear to the underſtanding of any man that ſhall take the pains to examine it.

Sect.

Sect. 11. Yea, and it is further to be considered, that the continuance of such an affection and resolution may be likely to expose as well the one as the other to the assault of more strong and dangerous temptations, now since the Husbands death, than before. The danger on the Gentlemans part, this, lest by how much he is now by the Husbands death, put into a nearer possibility of enjoying his unlawful hopes, he should grow into so much the deeper loathing of his own bed, and so much the earnester longing that, that which is now the only *obstacle* to the fruition of his desires were removed; of which thoughts, who can tell how *fearful* the *issues* might be? the *sly Enemy* being most ready at all times to *practise* upon the *corruption* that is in the *naughty heart* of Man; but especially having a *mighty advantage* against him, when he hath got his *conscience* as it were in a *snare*, by the *engagement* of some *vow*, *promise*, or *setled resolution*. And then on the Gentlewomans part, the *danger* this, lest having by her own voluntary act debarr'd her self of that which is the only allowed remedy, namely *Marriage*; she should by the just judgment of God, be left to the rage of the Disease of *burning Lusts*: for

for upon what sound warrant can she be confident, or with what reason expect, that God should either preserve her from, or assist her against temptations in that kind, though she should seek it of him with Fasting, and Prayers, and Tears, so long as she tempteth Him by persisting in a wilful obstinacy against that means of Remedy which He hath appointed? Indeed, where the Hand of God Himself hath prevented the use of the Remedy, (as if the Husband should be long detained in a forein Land, or held in close Prison, or taken with a *dead Palsie*, or some other bodily impotence, or the like) there the Wife might comfortably implore God's assistance to preserve her from being overcome by carnal temptations, and assuredly rest upon it by Faith, if she be not wanting to her self, in putting to her own utmost endeavors, because she hath a Promise to rest upon for that purpose; and God who is faithful in all his Promises, is also faithful in this, of *not suffering his Servants to be tempted beyond their strength*: but for the Wife, by some inconsiderate act of her own, wherein she wilfully and obstinately persisteth to refuse the appointed means, and yet to expect God's assistance nevertheless,

for which she hath no Promise, is a fearful tempting of God; and it is but a just thing with God, and she suffereth it *worthily* for her *presumption*, if she be left to her self, and so wrestle with the temptation by her own strength, and so be overcome thereby: For God, who hath after a sort tied Himself by His free and gracious Promise, to protect us in *Via Regia*, so long as we walk in the ordinary known way that he hath appointed for us, hath no where bound Himself to vouchsafe us the like powerful protection *Extra viam Regiam*, if we refuse that *high-way*, to walk in *by-paths* of our own chooſing; which present dangers on both sides, and the former reasons laid together, do sufficiently prove, that the Gentlewoman is not at all bound to perform her said unlawful Promise.

Point V.

Sect. 12. Hitherto we have proceeded in *genere judiciali*, by considering of the nature and *validity*, lawfulness and *obligation* of the Promise for the time past: Now we are to deal in *genere deliberativo*, and to consider what in *Christian Wisdom* is meetest to be

be farther done, for the better both quieting and regulating of the Conscience for the time to come; wherein, submitting to Men of better judgments, and experience, I give my advice as followeth, *viz.*

First, That the Gentlewoman out of the serious consideration of the Promises, be brought to a through feeling of the grievousness of those sins which she hath committed against God, and wherein she hath so long continued, that so she may not only be humbled in his sight with true contrition of heart, and remorse for the same, proportionably to the greatness thereof; but also be provoked to a proportionable measure of thankfulness unto him, for his gracious goodness in restraining her unlawful affections from breaking out into actual uncleanness, and preserving her when she had run out so far in an evil way, from rushing into more desperate Extremities; for *Erranti nullus terminus*: as a stone that tumbleth down a steep hill, so mans corruption, when it is once set on going, hath no stay of it self till it come to the bottom of *Hell*, unless the Lord lay a stop in the way: and it is to be acknowledged a blessed act of God's merciful Providence, when we have let loose

the reins to our own *lusts* in any kind, if they be bridled from running headlong into all excess of wickedness; great sins require more than ordinary Repentance, and great mercies more than ordinary Thankfulness.

Sect. 13. *Secondly*, That having thus humbled her self before God by inward Contrition, she also make an outward free Confession of her said sins, to him whom God hath delegated a Ministerial Power to remit sins, that she may receive Comfort and Absolution from his Mouth; I mean the Priest: and this I think meetest to be done to the Bishop of the Diocess, with one or more of his *Presbytery*, such as he shall think good to take to him to assist him; or else to some other by his appointment; because the Bishop is the chief Pastor, to whom the care of souls most immediately belongeth, within his own Diocess: besides that, both the quality of the person, (if she be of eminent Place, and Rank) and the weightiness of the case, make it so much the more proper for his *cognisance*: But howsoever it would be done to a Man of *approved Wisdom*, and such an one as will be both compassionate, and secret, wherein the more freely she shall make confession of her said sins,

sins, and the more chearfully she shall subject her self to perform such further Acts, whether of *Humiliation* or *Charity*, as the Bishop or Priest shall advise to be done, in testimony of her *unfeigned Repentance*, the more sound comfort undoubtedly will the *sentence* of *Absolution* bring unto the *soul*.

Sect. 14. This done, then *thirdly*, that she endeavor by all *fair means*, that the Gentleman also her *friend* and *partner*, in the aforesaid Promise, may be brought to the like sight and acknowledgment of the great sins that were enwrapped in that *act*, and to a true perswasion withal, that so long as he continueth in the former unlawful affection and resolution, he is not only still under the guilt of those sins, but also in *near danger* (without God's great mercy preventing it) of falling into other and greater sins, for which purpose it will be expedient, that he be truly and effectually dealt withal, (yet with as much *lenity* as the *state* of his *Soul* will suffer, and withal possible secresie) and that by some such person especially as he holdeth a *reverend Opinion* of both for *Learning* and *Piety*; and to procure that this be done, the Gentlewoman ought to take it into her own especial care; which it

will concern her to do, not only in Christian Charity for the good of his Soul, but in *Christian Wisdom* also for her own future *benefit* and *security*.

Sect. 15. For when he shall be once throughly convinced in his judgment and conscience, of the unlawfulness of the Promise made between them, and of the sinful inconveniences that attend the *continued purpose* of *fulfilling* it, there is a fair way open for that which is *next* & *fourthly* to be done, *viz.* That he be then earnestly moved for his *Relaxation* of the said *Promise* to the Gentlewoman, which (being it was but a *meer Promise*, and no *Vow*, as in the *first Point* hath already been shewed) he hath in himself a *full power* to make, and this also to be done in the *presence* of such Persons, as they shall make choice of betwixt themselves to be *witnesses* of the said *Release*; for although the Promise being *utterly unlawful*, hath no power to bind, and so there needeth no *Release*, as of absolute necessity, in regard of the thing it self; yet such *Release* may be very *behoveful* in regard of the Gentlewomans person, and for the quieting of her conscience, in case there should remain any fears or scruples behind, lest perhaps her

promise

promise should *still bind* her; for as *Satan* laboureth to *benum* the *Conscience* with *security*, to make men bold to commit sins without scruple, till he has drawn them into the *snare*; so when he seeth them offer to get out of the *snare* again by *Repentance*, he is very cunning to inject *needless scruples* and *fears*, if possibly he can, to hold them in by means thereof; wherefore I hold it very expedient, that such a *Release*, if it may be obtained, be not neglected; for thereby the binding power of the *Promise*, though we should suppose it lawful, should be quite taken away, so as there need no scruple to remain: *Abundans Cautela non nocet*, is a safe *Aphorism*; as wary men when they pay moneys, besides seeing the *Book* croft, will crave to have an *Acquittance*: So it may be some *satisfaction* to the Gentlewomans mind, to have a solemn *Release* before *witness*, which say it should be more than needeth, yet can do no harm howsoever.

Sect. 16. *Fifthly*, that the Gentlewoman all the while before, and so ever after (that time only excepted, when the *Relaxation* should be made, for then it is requisite she should be personally present) carefully avoid the company of that Gentleman, and *he*

likewiſe *hers*, ſo far as conveniently may be; but at leaſtwiſe, by no means *converſe together* with any familiarity, eſpecially in private; leſt the former *unlawful affection* ſhould rekindle in either Party, and ſo the *diſeaſe* after ſome meaſure of *Cure* grow to a *relaps*, which many times proves more dangerous than the *firſt malady*; for commonly when the *unclean ſpirit* is ejected by *Repentance*, if once he make himſelf *maſter* of the *heart* again (as he will attempt it, and without a good watch happily effect it) he will be ſure at the *re-entry*, to come with a *new ſtrength*, and that *ſeven-fold* to what he had before, and *needs muſt the end of that man be worſe than the beginning*: ſhe muſt therefore reſolve to ſhun all *likely occaſions* of falling again into the ſame ſnare, ſo far as the quality of her perſon and condition, and the *common affairs* of *life* will permit: And ſhe had need alſo to uſe her beſt care and diligence (praying to God daily for Grace to ſtrengthen her thereunto) to *withſtand* all *wicked temptations* of the *fleſh*, that ſhe be no more *foiled* thereby, neither *entangled* again in ſuch *ſinful inconveniences*, as by God's Mercy ſhe ſhall be now *freed* from.

Sect.

Sect. 17. If in theſe *Directions*, I be thought to *deal* with too much *rigour* and *ſtrictneſs*, it would be conſidered:

Firſt, that it's much better to put the *Patient* to a little more pain at the firſt, than by *skinning* the wound over, to heal it deceitfully; and to ſuffer it to *rankle inward*; which will breed a great deal more *grief* at laſt.

Secondly, That ſince all men (through corrupt *Self-love*, and privy *Hypocriſie*, cleaving to our *depraved nature*) are *partial* towards *themſelves*, and apt to deal more *favourably* with their own ſins than they ought; it is therefore ſafeſt for them (in their own Caſes eſpecially) to encline to *ſeverity* rather than *indulgence*.

Thirdly, That there may be a *mitigation* uſed of the *preſent Directions*, according as the ſtate of the *Patient* (in the ſeveral variations thereof) ſhall require; but that (for the avoiding of *partiality*) not to be permitted to the *ſole liberty* of the *party himſelf*, but rather to be done by the *advice* of a *Ghoſtly Phyſitian*, who if he be a man of ſuch *wiſdom* and *moderation* as is meet, will I doubt not allow a greater *indulgence* in caſe ſhe ſee it expedient, than it could be ſafe for

for the Party her self to take of her own head.

Fourthly, That in all this Discourse, I take not upon me to write *Edicts*, but to give my advice, that is to say, not to prescribe to the *judgment* of others, if any shall see cause to *dissent*, but to deliver my *own opinion* (being requested thereunto by a Reverend Friend) with such a *faithfulness* and *freedom* as becometh me to do; and truly those Parties whom it most concerneth, ought not to *blame* me for it howsoever; inasmuch as there can be no cause to *suspect* that I should be carried with any *personal respects* to be *partial* either for or against either of them; so God is my witness, whom I desire to serve, I had not any intimation at all given me, neither yet have so much as the least conjecture in the World, who either of them both might be.

The CASE of a *MILITARY LIFE.*

SIR,

IN referring over your friend to me, you have pitched upon one of the unfitteſt perſons in the World, to be conſulted in caſes of that nature, who am altogether a ſtranger to the *Publick Affairs* of *Chriſtendom*, and underſtand nothing at all of the mutual *Intereſts*, *Relations*, or *Tranſactions* of *Forein Princes* or *States*; yea, ſo little curious have I been to inform my ſelf, ſo much as where the *Stages* lay of the chiefeſt *Actions* of theſe latter times abroad, or what perſons were engaged therein; that I have ſomething pleaſed my ſelf (perhaps too much) with my *own ignorance* in our *home Affairs*, accounting it among the *happineſſes* of my *privacy* and *retiredneſs*, in theſe *unhappy times*; that amidſt ſo much *fury* and *bloodſhed* on every ſide, it was never my hap to be within the view of any *Battle* or *Skirmiſh*; nor did I ever ſee ſo much as a *Piſtol* diſcharged, or a *Sword* drawn againſt any ſingle perſon,

perſon, ſince the beginning of the *War*. I could have wiſhed therefore, ſince my opinion herein is deſired, that I had had the opportunity to have adviſed with ſome more knowing Men, and of greater experience and judgment than my ſelf in theſe *matters*; or at leſt, that you had ſent me, together with the two encloſed Letters, a tranſcript of your Anſwer (whoſe judgment I do with great reaſon very much *value*) unto the former of them; for there I aſſure my ſelf, I ſhould have met with ſuch *Materials* as would have ſerved me for a good *foundation* to work upon; yet to ſatisfie your deſire, ſo far as in me lieth, and the rather for the *Gentlemans* ſake your friend, (who though *unknown* to me by face, or till the receipt of your Letter, ſo much as by Name; yet by his Letters appeareth to be a perſon of Piety and Ingenuity, and a great Maſter both of *Reaſon* and *Language*) I have endeavoured (with reſervation of Place for ſecond thoughts, and ſubmiſſion to other Judgments) to declare what my preſent *apprehenſions* are concerning the whole buſineſs; wherein the *reſolution* of ſuch doubts, as in point of *Conſcience* may ariſe, or of the *moſt* and *chiefeſt* of them, will (as I conceive) very much depend upon

the

the consideration and right application of these *Four things*, viz.

I. *The different sorts of Mens imployments in general.*

II. *The nature of the Souldiers imployments in particular.*

III. *The end that Men may propose to themselves in following the War; or what it is that chiefly induceth them thereunto.*

IV. *The condition of the Person so imployed, or to be imployed.*

I. *Considerations of Mens Imployments in General.*

1. MEns *imployments* are of two sorts. The *one* of such as any man may (without blame from *others*, or scruple within himself) follow, meerly upon his own *score*, if he find himself in some measure able for it, and have a mind thereunto; he hath a power in himself (and that *jure proprio*, by a *primitive* and *original right*, without any necessary *derivation* from others) to dispose of himself, his time and industry in that way; for the exercise of which power, there

there needeth no special or positive *warrant* from any other person, but it is presumed he is, (as in relation to others) sufficiently warranted thereunto in this, in that he is not by any *Superior Authority*, Divine or Humane, *forbidden* so to do; and upon this account it is, that men betake themselves, upon their own *choice* and *liking*, to *Husbandry*, *Merchandize*, *Manual Occupations*, the *study of the Law*, &c.

2. But *another sort* of *Imployments* there are, whereunto a man hath not a *just right* primitively, and of himself, neither may he *lawfully exercise* the same meerly upon his own choice, but it is necessary, that that power should be derived upon him from some such person or persons, as have sufficient Authority to warrant him for so doing: Such is the *Imployment* of a *Judge*, a *Constable*, an *Arbitrator*, *&c.* which are therefore said to be *juris delegati*, because the right that any man hath to such *Imployments*, accrueth unto him by virtue of that Authority which he receiveth by *Delegation* or *Deputation* from some other that hath a right by *Command*, *Election*, *Nomination*, or otherwise to *Impower* him thereunto, whence are those usual forms, *Quo jure*, *Quo warranto*? *Who made*

made thee a Judge? By what Authority dost thou those things? Or, *Who gave thee this Authority?* A man may betake himself to the *Study*, and so to the *Practice* of the *Laws*, of his own accord, but he may not take upon him to be a *Judge*, without *Commission* from his *Sovereign*; so he may follow *Husbandry*, and *Merchandry*, upon his own choice, but he may not do the Office of a *Constable*, unless he be chosen by the *Neighbours*; or of an *Arbitrator*, unless chosen by the Parties thereunto.

3. Now, although as well the one sort as the other, after a man hath addicted himself to the one, or is deputed to the other, may not unfitly be termed his *Particular Calling*, and the *latter* perhaps with better *propriety* than the former, (for the word *Calling* properly importeth the *Action* of some other person) yet according to the common Notion, which by custom of speech among us, we have of these terms [*The General and the Particular Calling*] the *Imployments* of the *former sort*, are usually taken to be the *Particular Calling* of Men, and those of the *latter sort*, will be found (if well considered) to fall rather under the *General Calling*, as branches or parts thereof, inasmuch

much as the exercise of such Imployments, is a part of that *moral duty*, which all men (according to their several respective Relations) ought to perform to others, being by them *impowred* thereunto, upon the tie of *Obedience*, *Contract*, *Friendship*, &c. but for *distinction sake*, as the *Latins* make a difference between *vitæ institutum* and *munus*, we may call those of the *former sort*, *Mans Profession*, and those of the *latter sort* his *Office*; so a Man is by *Profession* a *Lawyer*, by *Office* a *Judge*; by *Profession* an *Husbandman*; by *Office* a *Constable*.

4. To bring this *Discourse* home to the *present business*, we are next to enquire, to whether sort of the two, the Imployment of a *Souldier* doth more properly appertain; that is, whether we are to conceive of it as a *Profession* which a man may at his *own choice* fix upon, as his *particular vocation*; or rather as an *Office* of *duty* and *service*, which he is to *undergo*, when by the *command* of his *Prince*, he shall be thereto *appointed*, and so to come rather under the notion of a *General Calling*? To me it seemeth clearly to be of the *latter sort*. For, (1.) in the passage of St. *Paul*, 2 *Tim.* 2. 4. *No man that warreth, entangleth himself in the affairs of this life,*

that

that he may please him that hath chosen him to be a Souldier; the word is στρατολογήσαντι, applied to him that *warreth* with the *note* of *Universality* (οὐδεὶς στρατευόμενος) *annexed*, seemeth to imply, as if he *supposed* that no man might go to *war*, unless he were *chosen* for that *service* by some other person that might command it. Nor do I see (2.) what good construction can be otherwise made of that *speech* of our Saviour, *Matt.* 29. 57. *All they that take the Sword, shall perish with the Sword*; or what should be the crime there intended to be signified, by this Phrase of *taking the Sword*, if it be not *this*, for a man to *take* the *Sword* into his *hand* by his *own Authority*, before it be *put* into his *hand* by that *Supream Power*, whom God hath immediately *trusted* with the *bearing* and *managing* of it. Now, (3.) can that be said to be a *Mans Profession*, or *particular Calling*, which men of all Professions are (in *obedience* to their *Governors*, and for the *service* of their *Countrey*) *bound* to *perform* whensoever they shall be by *Lawful Authority*, *called* and *appointed* thereunto.

5. If these *premises* will be *granted*, it will soon appear, that the *answer* to the *Question proposed*, in the beginning of the for-

mer Letter (as it ſtandeth there in *Terminis*, and in *Theſi*, abſtractly from the *conſideration* of the *perſon* in the ſaid Letter *charactered*, and thoſe other *circumſtances* which may vary the *Caſe*) muſt be in the *Negative*; viz. *That it is not lawful to be a Souldier, upon the ſame account that men apply themſelves to Trades, to the practice of the Laws, and to other (like) civil Imployments.*

II. *Conſideration of the Souldiers Imployment in particular.*

1. THe *care* that ought to be in every Man that *taketh* upon him the *exerciſe* of any *Office*, to be well aſſured that he hath a *ſufficient right* and *warrant* for ſo doing, is no leſs requiſite in a *Souldier*, than in any other Officer; yea rather by ſo much more requiſite in him, than in moſt of them, by how much the matter he is converſant about, (*viz. the Life of man*) is of *greater conſequence*, than are the matters in which moſt of them are imployed; for the Souldier every time he draweth his Sword in the Field, is by the very nature of his Imploy-

ployment supposed to do it either with a *resolution* to lose his own, or to take away his *Enemies life*; else he doth it but *prevaricate*, and is *unfaithful* in the *Service* he has undertaken: In which *service*, if it be his fortune either to kill, or to be killed, he is actually and deeply guilty; but if neither, yet that very *resolution* maketh him intentionally guilty of the Transgression of the sixth Commandment, *Thou shalt not kill*; in case he have no *good right*, so far to dispose either of his own, or the others life. It concerneth him therefore to look well to that; both what Power belongeth to him, as a Souldier, and by what Authority he claimeth the exercise of such a Power.

2. Most certain it is, that properly and originally the *power* to *dispose* of Mans Life (*Jus vitæ & necis*) belongeth to *God alone*, who is, *Dominus vitæ & necis*, as the *sole Author* of *Life*, so the *sole Lord* and *Master* of *Life* and *Death*: some part of which *power*, since it hath pleased him for the good of *humane Society*, (in the preservation of *Peace* and *Justice*, and the punishment of such as are enemies to either) to communicate unto men, (which power so communicated, is that which we use to call *Jus Gladii*, or the

power of the Sword) it may therefore be *lawfully exercised* by men; but within that *latitude*, and in *order*, as God hath communicated it to them, but not farther nor otherwise.

3. Now God hath not given to any man, either *Sovereign* or *Subject*, power over his own life, to destroy it by his *own voluntary act* in any Case; no, nor yet power to expose it to the certain hazzard of being destroyed by another in *fight*, saving in the one only Case of *just* and *necessary defence*: under which *notion* is to be comprehended also the hazzarding of the *Princes Life*, in a *just* and *necessary War*; out of which Case, whosoever shall *expose* his *life* to hazzard, by *fight*, of his *own accord*; if he *perish* in it, cannot be *excused* from being guilty of his *own death*, nor from usurping a power over his own *life*, which God hath not allowed.

4. Add hereunto the *injustice*, that he thereby doth to his *Sovereign* and *Countrey*. God hath given to his *Vicegerents* here on Earth, a *right in*, and a *power over* the persons of all their Subjects, within their several respective Dominions, even to the *spending* of their *lives* in their *Countreys service*, whensoever they shall be by their *Authority* required thereunto, which they cannot there-

fore

fore *prodigally spend* at their *own pleasure*, without *apparent wrong* done to their *Governors* interest; for as he that shall kill a *private person*, is not only an *offender* against God, and against that person, in depriving him of *life*; but is also by the Interpretation of the Laws, (according to the importance of the ancient form of Enditing) an *offender* against the *Crown* and *Dignity* of his *Sovereign*, in depriving him of a *Subject*, and consequently of the *interest* he had in his *person*, and of the use he might have had of his *service*: so he that is so *prodigal* of his *own life*, as to hazzard it upon the *Sword* in *fight*, without his *Sovereigns Authority*, if he perish, is not only *guilty* of his being *accessary* to his *own destruction*; but doth also an act injurious and prejudicial to his *Sovereign*, at whose *service* and *disposal* (under God) his *life* and *person* ought to be.

5. And as his *presumption* cannot be *excused*, if he be *slain* upon that account; so neither can he *justifie* the *killing* of another (though an enemy) in *Battle*, if he have no other *warrant* for taking of *Arms*, than from himself; for War is a kind of Judicature, wherein the Prince that wageth the War, is as the Judge that giveth sentence of death

againſt the Enemy, as a diſturber of the Peace of his Countrey, and all that engage in the War under him, are but as ſo many executioners of the ſentence pronounced by him; and he that executeth the ſentence of death upon another, muſt do it by ſome *lawful Authority*, as well as he that pronounceth the ſentence; or elſe he is a *Murtherer* as well as *This*. Now the Souldier that by fighting on the one ſide, doth *ipſo facto* declare againſt thoſe of the other ſide, as Enemies; if he ſo engage of his own mind only, he doth indeed, upon the point, take upon him the Office of a *Judge*, being none, and ſo *runneth* before he be ſent: or if it ſhall be ſaid in his behalf, That he doth it not as a Judge, but as the Executioner of the ſentence pronounced by that Prince, into whoſe ſervice he hath put himſelf, and who by the accepting of his ſervice hath ſufficiently authorized him to do ſuch Execution: Your Letter hath ſuggeſted to me this ready Anſwer, *That the ſentence pronounced by one that is not his Lawful Sovereign, and by conſequence, whoſe judgment he is not warranted to follow, is of no more validity* (as in relation to him) *than* Sententia lata à non judice, *and therefore can be no warrant to him to execute it.* True it is, that

that with *licence* from his *Sovereign*, he may serve under another Prince, and consequently do such execution as we now speak of; because the Sovereign by so licensing him, doth really refer him over from himself to *anothers judgment*, and consequently warrant him to follow the same, and so render him capable (upon the others acceptance) to execute it. All this is true, but nothing to our purpose, because it doth *destruere suppositum*; for we now suppose the Case of a *Souldier* putting himself into service, under a *Foreiner* of his own mind, and where *himself thinketh good*, without the *knowledg* or *licence* of his own *lawful Sovereign*.

III. *Consideration of the end to be proposed by the Souldier.*

1. SIth the *goodness* or *badness* of Mens *actions* and *undertakings* dependeth very much upon the end which they propose to themselves therein; he that would desire to lead a *Souldiers life*, must narrowly examine his own heart, what it is, *bona fide*, and in very deed, that first and chiefly induced him to

that desire, and what *affinity* there is between that end, which he proposeth to himself, as the main scope of his Intentions, and that which is or ought to be the *true end* of the thing it self; the true end of the War, which only can warrant it *lawful*, we all know is the necessary *preservation* of a *Common-wealth* in *Peace*, by repressing (or preventing) all *Seditions*, or *Hostile attempts* to the contrary; but as in other things it often happeneth, according to that saying, [*Finis non idem est artis & artificis*] so here many times the Warrior hath another *end* to himself far distant from that of War, and the more *distant* ever the worse; as on the contrary, the *action* is ever by so much the *better*, by how much the *intention* of the person hath a *near affinity with*, or a *directer tendency unto*, that for which the thing it self was *ordained*.

2. Now, the *ends* which men, desirous to follow the Wars, do usually propose to themselves in so doing, are especially one of these Three, *Lucre*, *Honour*, or *to do their Countrey service*; concerning which, we are to enquire severally, whether or no, and how far forth any of these may be a *sufficient inducement* to a *Christian*, or but *moral man*, to follow the Wars, as his *particular Calling* or *Profession*.

3. For

3. For *Lucre* firſt: He that hath a *warrant* otherwiſe to imploy himſelf as a *Souldier*, may doubtleſs lawfully both *receive pay*, and *require* it; *John the Baptiſt* allowed the *Souldiers* τὰ ὀψώνια, *Luke* 3. 14. And St. *Paul* thought it not reaſonable, that any man ſhould go to *warfare at his own Charges*, 1 *Cor.* 9. 7. Not ſo only, but he may alſo, in putting himſelf upon that *imployment*, (being called thereunto) have an *eye* to his *profit*, and an *actual intention* (if moderate, and otherwiſe rightly qualified) of getting himſelf a *livelihood*, yea, and of *raiſing himſelf* a fortune (as we call it) by his *ſervice* therein; even as men in the choice of other Profeſſions, or undertaking Offices uſually do, and may do without ſin? but to propoſe to himſelf *Lucre*, as the *main end* and *ſcope* of following the Wars (as it is evident by their actions, that very many of our Common Souldiers do) is one of the moſt *hateful* and *unrighteous* things in the World: ſo far is it from being a *ſufficient inducement* to any man to make that his *Profeſſion*. How can it be imagined to be conſiſtent with that *Charity*, *Juſtice*, and *Moderation*, that ſhould be in every *Chriſtian* to ſet up a *Trade* of *killing of Men* for Money? The meer *Mercenary Souldier*

Souldier therefore, or a *Souldier* of *Fortune* (as we call him) I find every where inveigh'd againſt as one of the greateſt Scourges or Plagues of Mankind; for ſuch Men never look at the Cauſe they engage for, whether it be right or wrong; but at the *pay* and *prey*; and therefore they take their beſt Markets, and care not whom they *undo*, *kill*, and *oppreſs*, by *Violence*, *Rapine*, *Murther*, and *Plunder*, ſo that they may but enrich themſelves thereby, and can do it with ſafety: Nor will they ſtick, if there be an advantage to be made of it; and that they can ſpy a fit opportunity for it, either to betray their own party, or to revolt to the other ſide, or to do any other act, though never ſo baſe and diſhoneſt, *Nulla fides pietaſque viris qui caſtra ſequuntur.*

4. Next the intuition of Honour and Glory to be acquired by *worthy Actions* in the *Wars*, may be not only lawful, but commendable alſo and uſeful in a *Souldier*; and truly this of *Glory* is a more *noble end*, of a higher pitch, and more befitting a generous ſpirit by much than that of *Lucre* is; both becauſe Men of eminent *Birth*, and *Place*, and *Parts*, are apteſt to be affected with it; whereas *Gain* worketh moſt upon the lower

ſort

ſort of Men, and alſo becauſe it putteth Men upon more worthy Enterprizes, and ſuch as may win *Honor* and *Reputation*; and reſtraineth them from thoſe baſer acts of *Injuſtice*, *Cruelty*, and *Rapine*, to which the deſire of *Gain* uſually prompteth the *Mercenary* Man; but yet as to the warranting of the *Souldier* for making that his *Profeſſion*, (which is the Point now in hand) this of *Glory* is of no more importance than was that of *Gain*; for the right end of *War*, being a *ſafe* and *honourable Peace*, there is ſomething common to both (conſequential to the deſire of *Glory* as well as of *Gain*) ſo inconſiſtent with that end, that it ſetteth them at an equal, or not much unequal diſtance therefrom: For as he that aimeth to gain by the Wars, cannot but deſire the continuance of War, that ſo his hopes of gain may continue; ſo he that aimeth to get himſelf Glory by the Wars, cannot but deſire the continuance of War, that ſo the opportunities of encreaſing his *Glory* may continue; for there is a *Dropſie* of vain-glory in the *Ambitious*, as well as of *Avarice* in the *Covetous*, as *thirſty* and *unſatiable* in the *one*, as in the *other*; whence it cometh to paſs, that both the *one* and the *other* uſe their utmoſt wits and endeavours

vours to find occasions to lengthen the Wars, and to *obstruct* and *retard* (so much as lieth in them) the advices of *Peace*: Nay, let me add moreover, that in this respect at least (*viz.* as to the effectual hindring of Peace) that of *Honour* and *Glory*, is much the more dangerous end of the two; because this humour is aptest to seize upon the *greatest Persons*, and such as by priviledge of their *birth*, eminency of their *places*, activeness of their *spirits*, glory of their *former actions*, or other like advantages bear a great sway in *Councils*, and are of some authority in the *Armies*: whereas the *Peasantry*, in whom most of the other *humour* (that of base *Lucre*) aboundeth, have neither the *wit* nor the *power* ordinarily to do much harm. It hath therefore been a constant observation in all times and places, that the embroyling most *Commonwealths* in Wars, in the mean time, and working their ruin in the end, hath grown from the restlesness of some ambitious spirits, and their immoderate thirst after *Honor* & *Glory*.

——*Patriam tamen obruit olim*
Gloria paucorum, & laudis titulique cupido:
Juvenal Sat. 10.

5. So

5. So that if there be any possibility of finding a person capable to take upon him the imployment of a *Souldier*, as his proper *Profession*, it must be among those that propose to themselves the same end therein, that is, or ought to be the *end of War*; that is to say, those that after an impartial search of their own hearts, can truly say (and not pretend it only) *That their chiefest aim in applying themselves to the Wars, is to do their King and Country service, in procuring or preserving the Peace thereof:* which no man can truly say, but he that prefereth the *Publick Good*, and the *Peace* of his *Country*, before all *private Interests*. The tryal whereof is, if he take up Armes with this *Resolution*, and by his after carriage make it *good*, not to do any *act*, or enterprize any thing for his own *benefit*, *glory*, or *safety* that may hinder, nor to refuse any service or hazzard that may probably promote the obtaining of that end; which Qualification supposed, I deny not but that a Man may find warrant to go on in the way of a *Souldier* as his proper *Profession*, and that in two Cases.

6. First, that which (in the nature of the *Imployment* it self) is rather an *Office* than a *Profession* (such as we have already shown the

the *Souldiers* imployment to be) may yet become to the perſon ſo imployed, as his proper *Profeſſion*, if he ſhall be appointed thereunto by *lawful Authority*; eſpecially if it be done with a declared intention (whether expreſly or interpretatively declared) of continuing him for life, or for any long ſpace in the ſame; and that the ſaid imployment, during ſuch his continuance therein, ſhall require his perſonal attendance, either conſtantly or for the moſt part: As for example, a *Lawyer* by Profeſſion and Practice, is by his *Sovereign* called to be a *Judge* of either Bench, or a *Baron* of the *Exchequer*, the *Office* of a *Judge* is now become his *Profeſſion*, or *particular Vocation*, becauſe it is ſuppoſed that he is to continue in that Office; and the execution of that Office will require his attendance thereupon, in the yearly *Terms* and *Circuits*: but if the *King* ſhall appoint a *Serjeant* or *Counſellor* at the Law, by his particular *Commiſſion* to ride this *Summers Circuit*, into ſuch and ſuch Countries, and there to execute the *Office* of a *Judge*, the Party ſo *conſtituted* and *appointed*, hath by virtue of that *Commiſſion*, full power to do the Office of *Judge* in that *Circuit*, and is to be received and honoured with the title of *Lord*,

and

and all other testimonies of *honour* and *respect*, in as much ample manner as other *Judges* in their *Circuits* are; yet doth he not thereby come to be *denominated* a *Judge*, as if that were his proper *Profession*, or ordinary *Calling*, as in the former Case; because he is *impowred to execute the Office of a Judge*, but during the time of that *Circuit* only: Nor is his *attendance* upon that Office any longer required, or so much as allowed him. In like manner, if the King of *England* shall make choice of some person of Quality to be *Governor* of *Dover Castle*, or of *Barwick*, that Office then is as his *Profession*, or *particular Calling*; because it is to be supposed, he is to continue in that *imployment*, and to *attend* the same until the Kings pleasure be further known therein: but if the King upon some sudden *Insurrection* and *Invasion* should raise an Army, and make choice of some person of like Quality to have the *Conduct* thereof, for the *Suppressing* or *Repelling* such *Insurrection* or *Invasion*, his *Imployment* in that service being but *temporary*, and to determine as soon as the business were ended, should not otherwise than in courtesie denominate him a General; or at least not be *esteemed* as his permanent pro-

profession, but only as a *transient Office*: This is one Case.

The other Case (which is more pertinent to the business of these Letters) is of such as desire to *imploy themselves* in the exercise of Arms in *Forein Service*, that they may attain to such knowledg or experience in the *Art Military*, as might the better enable them to do their King and Countrey Service, whensoever there should be need thereof; for since the *Managery* of War is long since grown into an Art, and that not to be learned from Books, or from *private study*; but to be acquired by much *practice* and *experience*, and diligent *observation*: and the rather for that the particular *Rules* of that *Art*, do not stand at such a certain stay as those of most other Arts do, but are daily altered and improved by new Inventions: It is very necessary for every *State* to be well provided of a good number of such persons of their own Nation, as should be expert and skilful in that Art; lest they should be forced, if an unexpected War should happen, to call in *Foreiners* for *assistance*, which is both dishonourable and dangerous: the necessity hereof too well appeareth by the evil consequents of the neglect of it in this

this *Nation* in these *latter times*, especially in the *Reigns* of the *two last Kings*, by reason of the *long Peace*; and (which commonly breedeth out of it as the *rust* and *canker* thereof) tenderness of Education and voluptuous living. The *Nobility* and *Gentry* of *England*, in the generality of them, had so much *degenerated* from the *Martial Prowess* of their *Ancestors* renowned in all *Histories*, than in the beginning of these *unnatural Wars*, there were very few to be found of our own *Nobility* and *Gentry*, fit to have *Command* in an *Army*, or that knew any thing belonging to the *Art* of *War*; insomuch as use was made on both sides of *Mercenary Men*, and most of them *Scots*, who being for the most part bred up abroad (in *France* especially, a place of much action) had learned experience more than our *English* had in such matters, by which *advantage* they had so wound themselves into the *chief Places of Command*, and had such an *influence* into the *Councils* of both sides, that the *War* was in a manner *wholly ordered* by their *directions*, witness the great power that *Ruthen*, *Urrey*, *King*, *Meldram*, &c. had in the Armies on either side.

8. The weightiness then of *Princes Affairs*, upon all *emergent occasions*, rendring it

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neceſſary for them, not only to have *Power* to *command* their *Subjects* of whatſoever Rank or Profeſſion to ſerve as *Souldiers* in their Wars; but alſo to provide aforehand for a ſupply of *able Men*, both for places of *Command*, and to execute other parts of that *ſervice*, which cannot be done, unleſs a conſiderable number of perſons be trained up in the exerciſe of *Armes*, and bred *Souldiers*: It is conſequently neceſſary, that ſome perſons be, either by their Authority appointed, or at leaſt by their permiſſion allowed to addict themſelves to a *Military courſe of life*, as their proper *Profeſſion* and *Calling*, which *Authority* or *Permiſſion* from their *Sovereign*, will ſufficiently warrant to their *Conſcience* the choice of that *Profeſſion*; ſuppoſing (as now we do) that the intention be right, the perſon meetly qualified, and all other *Cautions* in reſpect of the *matter*, *manner*, *circumſtances*, and otherwiſe, duly obſerved.

9. The neceſſity of learning this *Art* granted, there may ſometimes follow a further neceſſity, *viz.* of learning it abroad, and after it is learned, of *exerciſing* it *abroad*; and in *Foreign ſervice*, and that in theſe two *Caſes*: Firſt, when the Souldiers own *Country*, whereunto his ſervice is principally, and

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in the firſt place *due*, hath either the *happineſs* to be in a *ſetled Peace* and *Freedom*, under the *Government* of a *lawful Sovereign*; or the *unhappineſs* to be in ſuch *Servitude*, through the prevalency of an *Uſurping Power*, that no *Reſiſtance* can be made there againſt; for in the former Caſe, there is no *exerciſe* at all of the *Souldiers faculty* in earneſt; and of what little avail to the attaining of any *ſolid knowledg*, or *experience* in the *Art Military*, ſuch ſuperficial *trainings*, as were uſed (and thoſe but very ſeldom neither) by the *Lieutenants* of the ſeveral *Counties* here in *England*, with the *Countrey Captains* and *Muſter-Maſters* are (beſides that, our own reaſon will tell us) the *Rawneſs* and *Unſerviceableneſs* of our *Trained-Bands* in the beginning of the *late Wars* did abundantly *manifeſt*: and in the latter Caſe, the *Souldier*, if he will have *Imployment* at home, muſt either *engage* on the behalf of an *unjuſt Power*, or elſe run upon his own certain deſtruction to no purpoſe.

IV. *Consideration of the condition of the Person.*

1. THis must be considered too; for the different conditions of *persons*, may make a great difference in the *lawfulness* or *unlawfulness* of their *actions*, according to the *old saying*, which holdeth true in this sense also, no less than in *that other*, in which it is commonly used (relating to mens corrupt partialities, *Duo cum faciunt idem, non est idem.* In your Friends second Letter, I find a *demand* made (as in the way of *Reply* to some passage of your *Answer* to his first Letter) to this purpose; Suppose *two great Princes* (as *France* and *Spain*, for instance) have had *long Wars* together, and the *justice* of the *Cause* appear neither more nor less, on the *one side*, than the *other*; if in case a *third Prince*, or *State*, out of a sincere desire to *Establish* the *Peace* of *Christendom*, after other *offers* and *meditations* for that purpose made in vain, might lawfully *joyn* in *Arms* with the *one party* to force the *other* to *Peace*, why a *private person* might not as lawfully (having the same intention) enter into *Arms* for

for the same purpose; and the reason of *demand* thereof is, because every *Prince* or *State* is (in relation to other Princes and States) but as one *private man* to *another*; for being called to the *Regiment* of his *own people* only, he is but as a *private man* in *Aliena Republica*.

2. But that there is a great *difference* between a *Sovereign Prince* and a *private Person* in this affair, it cannot be denied; insomuch that I find in the very same passage (put in as it were by way of *Objection*) three very considerable differences. First, That Princes may, and sometimes are obliged by Articles and Covenants, for the defence of their Allies, to take up Arms, which cannot be the case of *private Men*. Secondly, That *Princes* may see cause to set in for their own safety and interest, lest the *prevailing Party* might grow *too Potent*, and so themselves might be *oppressed* by him. Thirdly, there is a greater probability in a Prince of compassing that Noble and Glorious end, *The Peace of Christendom*, than can be in a *private Man*. All these differences are allowed there as true; but yet excepted against, as not contributing any thing to the *justice* of the cause, which is here the Question.

If these do not, yet a *Fourth difference* there is, that will (as I conceive) manifestly contribute thereunto, to wit, that *Jus Belli*, is *Penes Principem solum*: in the business of War, *Princes* have a *judicial*, *private Men* an *executive power* only; and he that hath no power but to execute the sentence of a Judge, is bound to wait the *Judges Sentence* before he offer to act; otherwise he shall act beyond his lawful power, which is unjust: Not but that *Prince*, if he raise a War where he ought not, is unjust too; even as a Judge is unjust, which pronounceth a *wrong sentence*: but herein is the difference between them for taking up of Arms. The Prince having *jus agendi* in that behalf, may do it justly, and he may do it unjustly; yet where he doth it unjustly, he doth but *abuti jure suo*: but the *private person*, not having *jus agendi*, in that respect cannot (without the *Authority* of the *Sovereign*) do it otherwise than *unjustly*; because in so doing, he doth without leave *uti jure alieno*, which is alwaies unjust. It is one thing for a Man to use (whether well or ill) a power that of right belongeth *not to him*; the *one* is not *unjust*, unless he *abuse* his Power, the *other is*, if he *use* it at all.

4. Neither

4. Neither perhaps will the Reason alledged to the contrary (*viz.* that a Prince in point of Justice and Power, is in *Aliena republica*, but as a *private person*) bear so much weight as is laid upon it, if one Point be well considered, which I think will prove a truth, though it be very tenderly handled; otherwise it may prove very dangerous, both because it may seem a Paradox to those that have been little conversant in publick Affairs; as also, and especially, because it may, by racking it too high, be easily wrested to a mischievous construction, for the Patronage of any *Tyrannical action*; the point is this, that *justitia politica*, and *Justitia privata*, have not in all the same adequate measure. *Princes* are bound to be just, as well as the *meanest private men* are, and obliged to keep Faith both with *Friends* and *Enemies*, every whit as *exactly* and *punctually*, without *equivocation*, *reservation*, or other *eluding devices*, as they; of all this no man doubteth: but it is not therefore necessary, that the *Rules* of *Justice*, whereby the *Councils* and *Actions* of *Princes* and *States*, in their mutual Relations are to be measured, should be precisely *the same* with those which measure the *dealings* of Private men one with another.

5. And the reason of the difference is evident: private Mens *Controversies* may be *decided*, and their *Injuries repressed* or *punished*, by the positive *Laws* of the *State*, whereof they are Members; and consequently *subject* to be ordered in all their dealings by those *Laws*; which *positive Laws* (together with the *Law* of *Nature*, and the *Divine Law*, which are common to all Men) are the *adequate Rule*, whereby the *Justice* of *private Persons*, and of their *actions*, is to be measured; but since *Princes* and *States* are not subject to any such *positive Laws* common to them both, as may determine their Differences and Controversies: The great necessity of *Humane Affairs*, hath (for the good of Mankind in the preservation of Peace) introduced by the common consent of *Nations*, another *Law* of larger extent, that which we peculiarly call *Jus Gentium*, or the *Law of Nations* (whereof that which we call the *Law of Armes*, is one special part) by which the *Law of Nations* (together with the *Law of Nature*, and the *Divine Law*, as aforesaid) the *Justice* of *Princes* and *States*, and of their *Actions*, is as by the proper adequate *Rule* thereof to be *measured*. Whence it cometh to pass, that sundry things are by the

the *Rules* of *Politique Justice* allowed as lawful and just between *Princes*, which between *private men*, would by the *Rules* of meer *moral Justice*, be condemned (and that deservedly too) as unjust and unlawful: There are sundry *Arcana Imperii*, some arts and simulations for maintaining *Intelligence abroad* for concealing and disguising *Councils at home*, in the Instructions of *Embassadors* and managing of *Embassies*, in making *Alliances* and *Confederacies*, but especially in the pursuance and effects of War, which seem much to swerve from the ordinary Precepts of *moral Justice*; which yet *fide integrâ & circa dolum malum*) are by the consent of *Nations* allowed to be used, and so must be, or else there could be no secure living in the world in any *Society*, that saying of his *Atque ipsa utilitas justi prope mater & æqui*, had somewhat of truth and reason in it.

6. The *truth* and *reasonableness* of what hath been said will appear (omitting many other) in these few Instances. *First*, when a *Town* is taken by the *Enemy*, by the *Law of Nations*, the spoil thereof falleth to the *Conqueror*, which if he give to the *Souldiery* to plunder (as usually is done) every *Souldier* thereby acquireth a *just Right* and *Dominion* in

in that which he can lay his hand on first, and take into his Possession. *Secondly*, It may sometimes concern a *Prince* or *State* in point of *Honour* or *Safety* to vindicate himself by *War*, for some wrong offered to his *Merchants*, or for some *Rudeness* or *Incivilities* done to his *Embassador* (for even these, in case *Reparation* be *demanded* and *denyed*, have been ever held *just causes* of *War*; (as *Amphitruo* in *Plautus* rendereth that as a sufficient reason of his War, *Nimis ferociter legatos nostros increpant*) in this case it is by the *Law of Nations* allowed him, not only to *fight* against the *Prince* himself, who yet only did the *wrong*, but to *waste* his *Country*, *fire* his *Towns* and *Villages*, and spoil thousands of his *innocent Subjects* of their *fortunes* and *lives* in pursuance of his *just revenge*; but if a *private Gentleman* wronged by his *Neighbour* should in like manner, in *revenge* of that *wrong*, *beat* his *Servants*, *vex* his *Tenants*, and seek his or their *undoing*, the *act* were palpably most *unchristian* and *unjust*. *Thirdly*, Since *potent Princes*, have for the most part, great *Ambitions*, (and *Ambition* is a boundless *lust*) it behoveth a *Prince* for his *own safety*, to have a watchful eye over the *Motions* and *Designs* of a *potent Neighbour*, almost as much

much as of a *declared Enemy*; and therefore *wiſe Princes* have ever been careful by all *juſt means* to ballance their *neighbour Princes* and *States* as near as they could; in ſuch a proportion as might hinder the over-growth of any one above the reſt: In order whereunto it hath been held *lawful* for a *Prince*, laying aſide the conſideration of the cauſe, to joyn in *Armes* with the *weaker*, for his aſſiſtance againſt his *Potent Adverſary*, who elſe were likely in a ſhort time to *ſwallow* him up, whereby he ſhould become formidable and dangerous, as well to himſelf as to the other his *neighbour Princes* and *States*; upon which account alone, were there no other reaſon beſides, it would be as juſt for all *Chriſtian Princes* to compoſe their *own quarrels*, and to aid the *Venetian*, and *Hungarian*, *Perſian*, or *Tartar*, againſt the *Turk*, as it is expedient and honourable for them ſo to do: but what is thus allowed *juſt* in the *waging* of *War* between *Princes*; if in a *wager* of *Law* a *private perſon* ſhould attempt the like, *viz.* to aſſiſt with his purſe and pains a Poor Man againſt a Rich without conſidering the equity of the *Cauſe*, the *Act* were (as in the former inſtance) palpably *unjuſt* and *unchriſtian*: Inſtances might be produced many more to

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the same effect were it needful, but these I think sufficiently evidence the *truth* of what I undertook to shew in this particular.

7. There are also sundry other *circumstances* considerable concerning the *condition* of the *person*, which may render the same *undertaking unlawful* to one, which yet may be *lawful* for another, or more or less *expedient* or *inexpedient* for one than for another, supposing both *private persons* and *Subjects*; as namely, whether he be a person of Honour and Estate, or a man of ordinary rank and fortune; whether a single man, or Married? if Married, whether he have the *consent* of his VVife or no? and whether such *consent* were a free and rational *consent* in the Wife, arising from a Judgment convinced of the fitness of the *undertaking*, or rather *wrung* from her by the importunity of the *Husband*, and her *facility* in *yielding* to the *potency* of his *desires* therein? whether the necessity of his *domestical Affairs*, and *Oeconomical Relations* will brook his *absence* for so long a time as must be spent in that Imployment; or will not rather require his *presence* and *care* for the *managery* thereof in the mean time? and an hundred other like *doubts* and *difficulties* meet to be taken into

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deliberation, and *unprejudicately* weighed against those other *probabilities* and *inducements* which at first kindled, and after fomented his desires, before he *imbarque* himself in that *Imployment*: and yet when all is done, it were safer for him (in my opinion) to *forbear* than to *proceed* in his *intentions*, unless he shall be assured, that he hath the *free allowance* of his *Sovereign*, thereunto either *expressed* (which would be the cleerest *warrant* for his *conscience*) or at leastwise upon very pregnant grounds of probability *presumed*.

The CASE of SCANDAL.

1. IN judging of *Caſes* of *Scandal*, we are not ſo much to look at the *event*, what that is, or may be; as at the *cauſe* whence it cometh; for ſometimes there is given *juſt cauſe* of *Scandal*, and yet no *Scandal* followeth, becauſe it is not taken: ſometimes *Scandal* is taken, and yet no *juſt cauſe given*; and ſometimes there is both *cauſe* of *Scandal given*, and *Scandal* thereat *taken*: but no man is concerned in any *Scandal* that happeneth to another, by occaſion of any thing *done* by him; neither is *chargeable* with it, farther than he is *guilty* of having *given it*: If then we *give Scandal* to others, and they *take* it not, we are to bear a ſhare in the *blame* as well as *they*, and that a *deeper ſhare* too, (*Væ homini, Wo to the man by whom the offence cometh*, Matth. 8. 7.) but if they *take Offence* when we give none, it is a thing we cannot *help*, therefore the whole *blame* muſt lie upon them; wherefore if at any time any *doubt* ſhall ariſe in the *Caſe of Scandal*, how

how far forth the *danger* thereof *may*, or *may not oblige us* to the *doing* or *not doing* any thing *proposed*, the *Resolution* will come on much the *easier*; if we shall but rightly understand, what it is to *give Scandal*, or how many waies a man may become guilty of *scandalizing another* by his *example*. The waies (as I conceive) are but these *four*.

2. The *first* is, when a man doth something before another man, which is in it self *evil*, *unlawful*, and *sinful*; in which *Case*, neither the intention of him that *doth it*, nor the *event*, as to him that seeth it done, is of any *consideration*; for it mattereth not whether the doer had an intention to draw the other into sin thereby, or not: neither doth it matter whether the other were thereby induced to commit sin or not: the *matter* or *substance* of the *action* being *evil*, and *done* before others, is sufficient to render the *doer guilty* of having *given Scandal*, though he had neither any intention himself so to do; nor were any person *actually scandalized* thereby; because whatsoever is in it self, and in its own nature evil, is also of it self, and in its own nature *scandalous*, and of *evil example*. Thus did *Hophni* and *Phineas* the Sons of *Eli*, give *Scandal* by their

wretched

wretched profaneness and greediness about the *Sacrifices* of the *Lord*, and their *vile* and *shameless* abusing the *Women*, 1 *Sam.* 2. 17. 22. And so did *David* also give great *Scandal* in the *matter* of *Uriah*, 2 *Sam.* 12. 14. Here the *Rule* is, *Do nothing that is evil, for fear of giving Scandal.*

3. The *second* way is, when a man doth something before another, with a *direct* intention and *formal purpose* of drawing him thereby to commit sin; in which Case, neither the matter of the *action*, nor the *event* is of any *consideration*, for it maketh no difference (as to the sin of *giving Scandal*) whether any man be *effectually enticed* thereby to commit sin, or not; neither doth it make any difference, whether the thing done were in it self unlawful or not, so as it had but an appearance of evil; and from thence an *aptitude* to *draw* another to do that (by *imitation*) which should be *really* and *intrinsecally evil*, the *wicked intention* alone, (whatsoever the effect should be, or means soever should be used to promote it) sufficeth to induce the guilt of *giving Scandal* upon the *doer*: This was *Jeroboam*'s sin, in setting up the *Calves* with a *formal purpose* and *intention* thereby (for his own *secular* and

and *ambitious* ends) to *corrupt* the *purity* of *Religion*, and to draw the *people* to an *Idolatrous Worship*, for which cause he is so often *stigmatized* with it, as with a note of *Infamy*, to stick by him whilst the *World lasteth*, being scarce ever mentioned but with this addition, *Jeroboam the son of* Nebat *that made* Israel *to sin*. Here the Rule is, *Do nothing (good or evil) with an intention to give Scandal*.

4. The *third way* is, when a Man doth something before another, which in it self is not *evil*, but *indifferent*, and so according to the Rule of *Christian Liberty*, *lawful* for him to *do*, or not to *do*, as he shall see *cause* (yea, and perhaps otherwise *commodious* and *convenient* for him to *do*) yet whereat he probably *foreseeth* the other will *take Scandal*, and be occasioned thereby to do *evil*. In such Case, if the thing to be done, be not in some degree (at least prudentially) necessary for him to do; but that he might, without *great inconvenience* and *prejudice* to *himself*, and any *third person*, leave it *undone*, he is bound in *Charity* and *Compassion* to his *Brothers Soul*, (for whom Christ died) and for the avoiding of *Scandal* to *abridge* himself in the *exercise* of his *Christian Li-*

berty for that time so far, as rather to suffer some *inconvenience* himself by the not *doing* of it, than by *doing* of it to cause his *Brother* to *offend*; the very Case which is so often, and so largely, and so earnestly insisted upon by St. *Paul*, *Rom.* 14. 13, 21. and 15. 1, 3. 1 *Cor.* 8. 7, 13. and 9. 12, 22. and 10. 23, 33. Here the Rule is, *Do nothing that may be reasonably forborn, whereat it is like Scandal will be taken.*

5. The *last way* is, when a man doth something before another, which is not only *lawful*, but (according to the exegencies of present circumstances *pro hic & nunc*) very behoveful, and in some sort (prudentially) *necessary* for him to do; but foreseeth in the *beholder* a propension to make an *ill use* of it, and to take encouragement thereby to *commit sin*; if there be not withal a great care had to *prevent*, as much as is possible, the *Scandal* that might be *taken* thereat: for, *Qui non prohibet peccare, cum potest jubet.* In such case the bare *neglect* of his *Brother*, and not using his utmost endeavour to prevent the evil that might ensue, making him *guilty*, upon which Consideration standeth the *equity* of the *Judicial Law* given to the *Jews*, *Exod.* 21. 33, 34. which ordereth, that in case

caſe a man dig a *Pit* or *Well* for the uſe of his Family, and (looking no farther than his own conveniency) put no *cover* on it, but leave it *open*, whereby it happeneth his Neighbours Beaſt to *fall* therein, and periſh, the *owner* of the *Pit* is to make it good, inaſmuch as he was the *occaſioner* of that *loſs* unto his neighbour, which he might and ought to have *prevented*: In this laſt Caſe the thing is not (for the danger of the *Scandal*) to be *left undone*, ſuppoſing it (as we now do) otherwiſe *behoveful* to be done; but the *action* is to be ordered, and carried on by us, for the manner of *doing*, and in all Reſpects and Circumſtances thereunto belonging, with ſo much *clearneſs*, *tenderneſs*, and *moderation*, and *wiſdom*, that ſo many as are willing to take notice of it, may be ſatisfied that there was on our part a reaſon of juſt neceſſity that the thing ſhould be done; and that ſuch perſons as would be willing to make uſe of our *example*, without the like neceſſity, may do it upon their own ſcore, and not be able to *vouch* our *practice* for their *excuſe*; even as the Jew that ſtood in need to ſink a *Pit* for the ſervice of his Houſe and Grounds, was not (for fear his Neighbours Beaſts ſhould fall into it, and be drowned)

bound by the Law, to forbear the making of it, but only to provide a ſufficient cover for it, when he had made it. Here the Rule is, *order the doing of that which may not well be left undone, in ſuch ſort, that no Scandal may, through your default, be taken thereat.*

6. I do not readily remember any *doubt* that can occur about the reaſon of *Scandal*, which may not be brought within the compaſs of theſe *four Rules*; and then the right applying ſome or other of theſe *Rules*, will give ſome furtherance towards the *reſolution* of theſe *doubts*.

THE

The CASE of a BOND Taken in the KINGS Name:

Propoſed *July* 1658.

R. C. *Was* ſeized *in* Fee *of certain* Houſes *of ſmall Value, with the* Appurtenances; *and in the Year* 1635. *whiles* Owner *of the ſaid* Houſes, *he entreated* A. B. *to be his* Surety *for* One Hundred Pounds; *and continued the ſame at* Intereſt *till* 1639. *At which time he requeſted* A. B. *to* diſcharge *that* Bond, *and in* conſideration *thereof*, ſelleth *the ſaid* Houſes *to* A. B. *and his* Heirs *for ever*; *the ſaid* R. C. *alſo* buyeth *of a* Merchant *a parcel of* Goods; *the* Merchant *being a* Receiver *of ſome part of the late* Kings Revenue, *and under pretence of a* priviledge *thereby*, *taketh a* Bond *of the ſaid* R. C. *for the* payment *of* Two Hundred pounds *to himſelf*, *but in the* Name *of the late* King, *as if* indebted *to the* King; *and under that* pre-

tence, *procureth an* extent *upon the* Houſes *ſold to* A. B. *and maketh* ſeizure *thereof: Was* R. C. *ſeized of the ſame, when he* entred *into that* Bond.

The ſaid King, 1640. *publiſhed a* Proclamation, *wherein he declared, That the* taking *of ſuch* Bonds *was contrary to* His Intention, *and an* abuſe *of his* Prerogative, *and* prohibited *all ſuch* crafty Courſes, *as tending to the* Oppreſſion *of his* Subjects; *and it is to be* noted, *that the ſaid* Proclamation *was publiſhed* two years *before the* extent *was executed upon the* Houſes, *which nevertheleſs have been held under that* extent, *about* fourteen years, *which is beyond the* value *of the* Houſes.

The ſaid R. C. *died poor, the* Merchant *is dead alſo, without any* Child, *leaving an* Eſtate *behinde him of* Twenty Thouſand Pounds, *as is ſuppoſed; a great part* viſible *in* Lands, *as appeareth by his* laſt VVill *upon* Record.

Advice of Council *at* Law *being taken, how the ſaid* A. B. *may be moſt* readily relieved; *he is directed to* Petition *the* preſent Supreme Power *to* pardon *the* Debt, *becauſe taken only in the* Kings Name, *when there is no* Debt *due to him from* R. C.

As

As to the Caſe Propoſed.

1. I Am clearly of opinion, that the taking of *Bonds* in the *Kings Name*, to the meer behoof, and for the advantage of *private perſons*, when there was ſuch *Debt* really due to the *King*, was a *fraudulent* and *unjuſt act* from the beginning; for though it were not *actually forbidden*, and ſo might perhaps be valid enough in *foro externo*, till the iſſuing out of the Kings *Proclamation* in that behalf; yet was it in point of *Conſcience* unlawful before, as being a *crafty courſe*: ſo refuſed by the King himſelf, and guilty of a *double injuſtice*, the *one* to the *King*, as an *abuſe* to his *Prerogative*; the *other* to the *Subject*, as tending to their *oppreſſion*, as by the *Proclamation* is recited, and that therefore.

2. Neither might the *Merchant*, whiles he *lived*, nor ought his *Executors*, now he is *dead*, to make advantage of the *Kings Name* uſed in that *Bond*; nor might he then, nor may they now, by virtue of the *Kings Prerogative*, or under the colour thereof, for the recovery of the ſaid *Debt*, uſe any way to the prejudice or damage of the *Obligee*, or

of any *Purchaſer* from him, other than ſuch, as he or they might have uſed, in caſe the *Bond* had been taken in the *Obligee*'s own Name, and not in the Kings.

3. If any *Proceedings* have been made already in purſuit of the *Debt*, due upon the ſaid *Bond*, upon no other ground or colour, than the *Prerogative* aforeſaid, whereby the ſaid *A. B.* cometh to be endamaged or prejudiced more than otherwiſe he ſhould have been; that the *Executors* ought to make him ſome conſiderable ſatisfaction for the ſame, although perhaps not to the full of what he hath ſuffered or would demand; yet in ſuch a proportion, as to the judgment of indifferent perſons (in a caſe wherein both parties, if they muſt do what is fitting and juſt, are ſure to be loſers) ſhall ſeem reaſonable, in caſe the *Parties* cannot accord it between themſelves.

4. Whereof, although through the *corrupt partiality* that is in moſt, I may truly ſay, all men more or leſs; I do not apprehend any great likelihood (for neither part *would*, and yet both muſt be *loſers*) yet I ſhould adviſe that tryal were made thereof in the firſt place, as the moſt kindly *Chriſtian way* of growing to *peace*, if *parties* will be per-

perſwaded to meet about it, and can be made *Maſters* of their own *paſſions* when they are met; and ſurely matters might be eaſily brought to a *handſome concluſion*, if both *parties*, but eſpecially the *Executors*, who ſeem to have the advantage in *Law*, would not ſtand too much upon whatſoever advantage they may ſeem to have, but (as in *Conſcience* they ought) ſubmit both that, and all other circumſtances appertaining to the *buſineſs*, and indeed their whole *mutual demands*; to the final determination of that *tranſcendent Law*, which *Chriſt* hath eſtabliſhed as the only *Royal Standard*, whereby to meaſure the *equity* of our *actions*, in all our dealings towards others, *viz. To do as we would be done unto*; or which cometh to one, *Not to do that to another, which if he ſhould do to us* (ſuppoſing his Caſe was ours) *we ſhould think our ſelves ſcarce juſtly and fairly dealt withal.*

5. But laſtly, in caſe no ſuch accord can be made, either by *agreement of Parties*, or *mediation of Friends*, and that through the only default and ſtiffneſs of the *Executors*; *A. B.* having by all fair ways faithfully ſought and endeavoured the ſame, I ſee not but the ſaid *A. B.* may (but not to be done, but as his

his last refuge) seek to relieve himself according to the advice of his *Council*, by making his *Addresses* to such *Person* or *Personage*, as for the time being shall be in actual possession of the *Supreme Power*, and so in a capacity to over-rule the *Law* in a Case of that nature, by forgiving that *Debt* whereupon the King was colourably and fraudulently entituled for private advantage, to the prejudice of a *third person*, but was not at all a debt owing to him from the *Obligee*.

P. P. 17. *July*,
1658.

THE

The CASE of the ENGAGEMENT.

SIR,

I Have hitherto been very ſparing in delivering my opinion concerning the point now moſt in agitation, *viz. Of the lawfulneſs or unlawfulneſs of Subſcribing the Engagement*: conſidering the miſchiefs that muſt needs have followed, if it ſhould be once noiſed abroad, that I had given forth any determination in ſo tickle a point. I could not but foreſee on the one ſide, if I ſhould condemn it as utterly unlawful, how I ſhould be looked upon by thoſe that have all power in their hands, not as a refuſer only, but a diſſwader alſo of what they have thought fit to require: And on the other ſide, if I ſhould allow it in any caſe lawful, what ill uſe would certainly be made thereof by multitudes of people, apt to be ſo far ſcandalized thereby, as either to ſwallow it whole without chewing, (that is, reſting themſelves upon the general determination of the lawfulneſs to take it in hand over head, without due conſidera-

tion,

tion, either of the true meaning of it, or of other requiſite cautions and circumſtances) or elſe to conceive themſelves by ſo engaging, to be for ever diſcharged from the bond of their former *Allegiance*.

Yet ſince by your Letter, and by ſending your ſervant therewith on purpoſe ſo many daies journey, through unknown waies, and at this ſeaſon of the year (eſpecially as the weather hath proved ſince his coming forth) ſcarce paſſable, you have ſhewn your earneſt deſire to underſtand what my opinion is in this point; ſo great, both for difficulty and concernment; I could not think it fit, nor conſiſtent with that civility which is to be uſed, eſpecially towards Strangers, to ſend back your meſſenger without the return of ſome kind of anſwer: Wherein, albeit I ſhall not come up to the full, of what your Letter declareth to be your deſire, *viz. In giving a particular Judgment and eſtimate of the Eight ſeveral Arguments therein propoſed, and the additional* Quære *in the Poſtſcript*: yet you ſhall find ſomething tending towards your ſatisfaction therein, by touching upon thoſe points (ſo far as the ſtraits of time would ſuffer) wherein the difficulty of the whole buſineſs ſeemeth chiefly to conſiſt.

Firſt,

First then, it is to be considered, that *Allegiance* is a duty that every Subject, under what form of Government soever, by the Law of *Nature*, oweth to his Countrey, and consequently to the Sovereign Power thereof. For the very same Law (which we may call the *Law of Nature*, at least in a large acceptation) which inclineth particular men to grow into one civil body of a Common-wealth, must necessarily withal, imprint a sense, and tacite acknowledgment of such a duty of *Allegiance* in every inferior member of the body, unto the *Caput Communitatis*, or Sovereign Power, by which that Common-wealth is governed, as is necessary for the preservation of the whole body. So that the bond of *Allegiance* doth not arise originally from the *Oath of Allegiance*; as if those that had not taken the *Oath*, had a greater liberty to act contrary to the *Allegiance* specified in the *Oath*, than those that have taken it, have: or as if, in case the *Oath* should be quite laid aside, there should be no *Allegiance* due. But it is so intrinsecal, proper, and essential a duty, and (as it were) fundamental, to the relation of a Subject, *quâ talis*, as that the very name of a Subject doth, after a sort, import it; inso-

insomuch, that it hath thereupon gained, in common usage of speech, the stile of *Natural Allegiance*: Whence all these inferences will follow.

1. That the *bond* of *Allegiance*, (whether sworn or not sworn) is in the nature of it *perpetual* and *indispensable*.

2. That it is so inseparable, from the relation of a Subject, that although the exercise of it, may be suspended by reason of a prevailing force, whilest the Subject is under such force, (*viz.* where it cannot be imagined, how the endeavour of exercising it can be effectually serviceable to restore the Sovereign Power to the right owner, for the establishment of that Publick Justice and Peace wherein the happiness of Commonwealths consisteth) yet no outward force can so absolutely take it away, or remove it, but that still it remaineth vertually in the Subject, and obligeth to an endeavour (so soon as the force that hindered it is over) of actually exercising of it, for the advantage of the party, to whom of right it is due, and the advancement of the common good thereby, upon all fit occasions.

3. That no Subject of *England*, that either hath, by taking the Oaths of *Supre-*

macy,

macy, or *Allegiance*, acknowledged; or that not having taken either Oath, yet otherwise knoweth, or believeth, that the *Sovereign Power* in *England*, to whom his *Natural Allegiance* is due, is *the King, his Heirs, and lawful Successors*, can without sinning against his Conscience, enter into any *Covenant*, *Promise*, or *Engagement*, or do any other *Act* or *Acts* whatsoever, whereby either to transfer his *Allegiance* to any other party, to whom it is not of right due, or to put himself into an incapacity of performing the duties of his *bounden Allegiance* to his lawful Sovereign, when it may appear to be useful and serviceable to him.

4. That therefore the taking of the late *Solemn League and Covenant*, by any Subject of *England* (notwithstanding the Protestation in the Preface, that therein he *had the Honour of the King before his eyes*; and that express clause in one of the *Articles* of it, wherein he swore, *The Preservation of the Kings Person and Honour*) was an act as clear contrary to the *Oath of Allegiance*, and the *Natural Duty* of every Subject of *England*; as the *Assisting of the King to the utmost of ones power* (which is a branch of the Oaths) and the assisting against any person what-

whatſoever, with his utmoſt power, thoſe that were actually in Arms againſt the King (which was the very end for which that Covenant was ſet on foot) are contrary the one unto the other.

5. And that alſo for the ſame reaſon, no Subject of *England*, that hath taken the Oaths, and underſtandeth them, or is perſwaded that the Sovereignty of this Realm doth of right belong to the King, his Heirs, and lawful Succeſſors, can without ſinning in like manner againſt his Conſcience, take the *Engagement* now offered: if he ſo underſtand the words, wherein it is expreſſed, as if they did contain in them, and require of the Promiſer, an acknowledgment that the Supream Power of this Realm, whereunto the Subjects owe their *bounden Allegiance*, is rightly veſted in thoſe perſons that now exerciſe it; or as if they did import an utter abjuration, or renouncing of that *Allegiance* which was formerly held due to the King.

II. This being cleared, the next enquiry muſt be, Whether or no *the words of the Engagement* will reaſonably bear ſuch a conſtruction, as to the underſtanding of a rational and conſcientious man, may ſeem conſiſtent

sistent with his *bounden duty* and *Allegiance* to his lawful Sovereign? Whereof (I think) there need be no great question made, if it be well considered.

1. That all expressions by words, are subject to such ambiguities, that scarce any thing can be said or expressed in any words, how cautelously soever chosen, which will not render the whole speech capable of more constructions than one.

2. That very many men, known to be well affected to the King and his Party, and reputed otherwaies both learned and conscientious (not to mention the *Presbyterians*, most of whom, truly for my own part, when we speak of learning and conscience, I hold to be very little considerable) have subscribed the Engagement; who in the judgment of Charity, we are to presume, would not so have done, if they had not been perswaded the words might be understood in some such qualified sense, as might stand with the duty of *Allegiance* to the King.

3. That (as you write) it is strong'y reported and believed, that the King hath given way to the taking of the Engagement, rather than that his good Subjects should lose their Estates for refusing the same.

Which, as it is a clear evidence, that the King, and they who are about him, to advise him, do not so conceive of the words of this Engagement, as if they did necessarily import an abandoning of the *Allegiance* due to him: so 'tis (if true) a matter of great consideration towards the satisfaction of so many, as out of that fear only, have scrupled the taking of it. For the doing of that cannot be reasonably thought to destroy the Subjects *Allegiance*; which the King, who expecteth *Allegiance* from all his Subjects, advisedly, and upon mature deliberation alloweth them to do.

III. But all this being granted, that the words of the Engagement are capable of such construction; yet is not the Conscience thereby sufficiently secured, from justly scrupling at the taking thereof, unless it may yet further appear, that the Subject hath the liberty to make use of such a construction; which is in effect the *Quare* contained in your Postscript, *viz.* Whether upon supposition, that the words of the Engagement will bear more constructions than one, the subscriber may take it in his own sense, or is bound to take it in the imposers sense? or, Whether

it

it be neceſſary or expedient before he ſubſcribe, to ask thoſe that require his ſubſcription, in what ſenſe they require him to ſubſcribe it? Upon the reſolution of which *Quære*, ſince (as I conceive) the laſt reſolution of the Judgment, wherein the Conſcience is to acquieſce, doth principally depend; I ſhall endeavour to give you my thoughts therein, (wherein I acknowledg to have received much light and ſatisfaction from a Diſcourſe written by a Learned, Judicious, and Pious friend, whereof I lately had the peruſal, but for ſome reaſons, not thought fit to be publiſhed) as diſtinctly, and clearly, as the time I have to do it in, will ſuffer.

1. *Firſt* then, for a man that is required of another to give Faith by ſome *Oath*, *Promiſe*, or other *Engagement*, to take it in a ſenſe of his own, manifeſtly different (even in his own apprehenſion) from the others meaning, ſufficiently expreſſed by words, according to the common cuſtome of ſpeech, and the nature of the buſineſs which it concerneth, is ſo groſs a conceit, that had not the impudence of the Jeſuits, in maintaining the lawfulneſs of their Equivocations, and the ſad experience of theſe late times, (wherein thouſands have cheated themſelves

in perjury, by thinking to avoid it) evidenced the contrary, it might well have been thought a thing incredible, that any man of common understanding, should suffer his reason to be so infatuated by his affections, as to be deceived thereby. For if such latitude of construction should be admitted in Promises, and other Obligations of that nature, intended for the Preservation of Faith amongst mankind, there would not remain any possible means, whereby for men to have assurance of one anothers meanings. Wherefore I take that for a clear truth, That all Promises, and Assurances, wherein Faith is required to be given to another, ought to be understood, *ad mentem imponentis*, according to the mind and meaning of him to whom the Faith is to be given; so far forth as the meaning may reasonably appear, by the nature of the matter about which it is conversant, and such signification of the words, whereby it is expressed, as according to the ordinary use of speech amongst men, agreeth best thereunto. The reason whereof is, because the Faith so required to be given, is intended to the behoof, and for the interest of him that requireth it; namely, to the end he may have the better assurance from him

him that giveth the faith, that what is promiſed ſhall be accordingly performed: which aſſurance he cannot have, if after his meaning, ſufficiently declared by the words, it ſhould yet be at the liberty of the Promiſer to reſerve another ſecret meaning in his own breaſt, differing there-from.

2. But *Secondly*, what if the Intention of the Impoſer be not ſo fully declared by the words and the nature of the buſineſs; but that the ſame words may in fair conſtruction be ſtill capable of a double meaning, ſo as taken in one ſenſe, they ſhall bind to *More*, and in another to *Leſs*? I conceive in ſuch caſe it is not neceſſary, nor always expedient (but rather for the moſt part otherwiſe) for the Promiſer, before he give faith, to demand of the Impoſer, whether of the two is his meaning. But he may by the rule of Prudence, and that (for ought I ſee) without the violation of any Law of Conſcience, make his juſt advantage of that ambiguity, and take it in the ſame ſenſe which ſhall bind *to the Leſs*. And this I ground upon the very ſame reaſon as before; For ſith the Faith to be given, is intended to the behoof of him, to whom it is given, it concerneth him to take care that his meaning be expreſſed in

such words as will sufficiently manifest the same to the understanding of a reasonable man. Which if he neglect to do, no Law of Equity or Prudence bindeth the Promiser by an over-scrupulous diligence to make it out, whereby to lay a greater obligation upon himself than he need to do.

3. But then *Thirdly*, if it shall happen (as often it cometh to pass, when we have to deal with cunning men, and may possibly be the Case now, and undoubtedly was so in the business of the *Protestation*, when the time was) That he that requireth the faith to be given, do of purpose so contrive the words, that there may be left an ambiguity and latitude of sense therein; yea, and that it be very probable, and in a manner apparent, (upon the consideration of the point of interest, or other strong presumptions arising from circumstances or otherwise) even to the apprehension of the Promiser himself, that he hath some farther reach in requiring that promise from him, some more remote and secret intention then he is willing to discover. In that case what is to be done? I answer, That the Promiser in such case is no ways obliged in giving his Faith, to take notice of any secret intention, but is at liberty

berty to make uſe of that Latitude of ſenſe, which the other did rather chuſe to leave undetermined, than to reſtrain, and ſo to turn the others cunning dealing to his own beſt advantage, by taking it in the more favourable conſtruction; and that which bindeth *to leſs*. For it is *the declared intention* only, (*viz.* That which the words, according to the common uſe of ſpeech, do in relation to the nature of the ſubject, moſt naturally and properly repreſent to the underſtanding of reaſonable men, when they hear them) and not to the remote, ſecret, and *reſerved intent*, which the Promiſer is obliged unto. The reaſon whereof is manifeſt; becauſe he that requireth Faith to be given from another, by words of his own contriving, is ever preſumed ſo to have determined the ſenſe thereof, in the contrivance of the words, as may ſufficiently declare what he intendeth the Promiſer ſhould aſſure him to perform. If therefore he have not ſo determined the words, as to ſignifie *the More*; it is in all reaſon to be preſumed, that he intended to oblige him but to *the Leſs*. For being at liberty to make his own choice of words, whereby to expreſs his own meaning; who can think otherwiſe, but that he

would make the choice with respect to his own Interest? And therefore, though he might have a secret desire, which he is loth to discover, that the Promiser should be bound to *the More*, and would be marvellously well pleased, that he should so understand the words, as if they intended to bind him to *the More*: Yet since it had been so easie a matter for him, by adding or altering a few words, to have declared that intent, if he had thought it conducible to his own ends; it will be presumed also, that it was out of respect of self-interest, that he forbare so to do, and chose rather to leave his meaning, in such general words, as will not exclude the sense, which bindeth but to *the Less*; and consequently that his declared intent obligeth to no more but to *the Less only*.

IV. To bring the matter yet closer, and to put it up to the present Cases, there are yet two things more to be done.

First, To shew what the different constructions (*the highest*, I mean, and *the lowest*) the words of the Engagement are fairly capable of.

And *Secondly*, to find as well as we can, whether

whether of the two is more probably the meaning intended by the Impoſers, to be declared by the words.

The words are theſe:

I do promiſe to be true and faithful to the Common-wealth of England, *as it is now eſtabliſhed without King or Lords.*

Wherein there are ſundry ambiguities.

1. *Firſt*, In the words *true and faithful*; by which may be intended, either the promiſe of that *Fidelity* and *Allegiance* (which was formerly acknowledged to be due to the King, *&c.*) to be now performed to thoſe that are preſently poſſeſſed of the Supream Power, as their right and due. Or elſe that promiſe *of ſuch a kind of fidelity*, as Captives taken in the War, promiſe to their Enemies, when they fall under their power; *viz.* to remain true Priſoners of War, and ſo long as they are in their power, not to attempt any thing to their deſtruction.

2. *Secondly*, In the word *Common-wealth*, by which may either be meant, thoſe perſons who are the *prevalent party* in this Kingdom,

dom, and now are poſſeſſed of, and do exerciſe the Supreme Power therein, as if the right of Soveraignty were veſted in them: Or elſe, the *whole entire Body of the Engliſh Nation*, as it is a Civil Society or State within it ſelf, diſtinguiſhed from all other Foreign Eſtates. Taken in the former ſenſe, the fidelity promiſed to the *Common-wealth*, relateth directly to the upholding of that party who are the preſent Governors *de facto*, and imports ſubjection to them as *de jure*: But taken in the latter, it relateth to the ſafety of the Nation, and importeth no more as to the preſent Governors, but to live peaceably under them *de facto*, and to yield obedience to them in things abſolutely neceſſary for the upholding Civil Society within the Realm; ſuch as are the defence of the Nation againſt Foraigners, the furtherance of Publick Juſtice, and the maintenance of Trade.

3. In the words *as it is now eſtabliſhed, &c.* which may be underſtood either by way of approbation of what hath been done by way of aboliſhing Kingly Government, and the Houſe of Peers, and placing all Authority and Power within the Realm, in the Houſe of Commons. Or elſe ἐξηγητικῶς only, as a clauſe

clauſe ſimply and barely reciting what manner of Government it is that this Nation *de facto*, is now under; *viz.* a Government by the Commons only, without either King or Houſe of Lords.

"Which Ambiguities conſidered, The "*higheſt conſtruction* that can be reaſonably "made of the words, is to this effect. I "acknowledge the Sovereign Power of this "Nation, whereunto I owe Allegiance and "Subjection to be rightly ſtated in the Houſe "of Commons, wherein neither King nor "Lords (as ſuch) have, or henceforth ought "to have any ſhare; And I promiſe that I "will perform all Allegiance and Subjection "thereunto, and maintain the ſame with my "fortunes and life to the utmoſt of my "power.

And the *loweſt conſtruction* that can be reaſonably made of the ſame words, is to this effect: "Whereas for the preſent, the Su-"preme Power in *England*, under which "Power I now am, is actually poſſeſſed and "exerciſed by the Houſe of Commons, "without either King or Lords; I promiſe "that ſo long as I live under that power "and protection, I will not contrive or at-"tempt any act of hoſtility againſt them:

"but

" but living quietly and peaceably under " them, will endeavor my self faithfully in " my place and calling, to do what every " good member of a Common-wealth " ought to do for the safety of my Country, " and preservation of Civil Society therein.

V. Now cometh in to be considered in the last place the great Question, whether of the two constructions it is, (*That* which bindeth to the *Most*, or *This* which obligeth to the *Least*, the words can well bear) that the formers of the Engagement did rather intend to declare by these words. They that think *the former*, want not probability of reason to ground their perswasions upon. For they consider, that those who are presently possessed of the Supreme Power, are not minded to part with it if they can hold it. And that the likeliest way to hold it is, if they can possibly bring the whole people of *England*, or at least the far greatest part thereof, to acknowledge that they are rightly possessed of it, and to promise Subjection and Allegiance to them as such. And that therefore the Engagement, being purposely devised and set on foot, as the fittest engine to expedite that work, must in all reason intend to oblige so far. Which being so contrary to

their

their Judgment and perſwaſion, concerning the duty and Oath of Allegiance, I cannot blame thoſe that ſo underſtand the words of the Engagement, if they abominate the very thought of taking it.

But there wanteth not great probability of Reaſon on the other ſide, to induce us to believe that the latter and lower ſenſe is rather to be deemed the immediate, and declared intent of the Impoſers, whatſoever cauſe of ſuſpition there may be, that the former meaning may be more agreeable to their *ſecret, reſerved, and ultimate intent*; between which two, if there be any difference (as it is not impoſſible but there may be) the Engager is not concerned in it, or not yet: the Equivocation, if there be any in that, muſt be put upon the Impoſers, not on the Promiſers ſcore. For thus believing, there are amongſt others theſe Probabilities.

1. That many prudent and conſciencious men of the Royal Party, as well Divines and Lawyers, as others, have thus underſtood it, who we preſume would not for any outward reſpect in the world have taken it, if they had conceived any more to have been intended in it.

2. That it hath often been affirmed, both pub-

publickly and privately in ſeveral parts of the Kingdom (if we may believe either common fame, or the reports of ſundry credible particular perſons) by thoſe that have perſwaded or preſſed others to ſubſcribe; that the ſame is the very true intent and meaning of it, and no other.

3. That if the Impoſers had been minded to have declared an intent of binding *to more*, they might eaſily have framed the words ſo as not to be capable of a conſtruction binding *to Leſs*.

4. That (as is alſo credibly reported) whilſt the form of words was under debate, the opinion of thoſe that would have had it ſet higher, was not followed, as held unſeaſonable; and the vote carried, for the more moderate expreſſion wherein it now ſtandeth.

5. That the Impoſers, intending by the Engagement to ſecure themſelves, eſpecially againſt the deſigns and attempts of thoſe men, who they knew (well enough) held them for no other than Uſurpers, muſt be in reaſon ſuppoſed to require no more aſſurance of them by the Engagement, than ſuch as may and is uſually given to Uſurpers; which is, not an acknowledgment of their title,

title, and a promiſe of Allegiance, but meerly a promiſe of living quietly, ſo long as they are under their power, and enjoy their protection.

6. That it is a received Maxim of Political prudence, for all new Governors, (eſpecially thoſe that either introduce a new form of Government, or come in upon a queſtionable title) to abſtain from all harſh proceedings, even againſt thoſe whom they know to be evil affected to their Power, and not ſo much as to exaſperate them (though it be in the power of their hands to deſtroy them) eſpecially in the beginning of their Government; but rather to ſweeten them into a better opinion of their perſons, and to win upon them by Acts of Grace and Oblivion (for *Remiſſiùs imperanti meliùs paretur.*) So as they may have but any tolerable kind of aſſurance from them in the mean time, of living quietly and peaceably under them. We have no reaſon therefore to believe that the Impoſers of this Engagement, who have acted the parts of the greateſt Politicians, ſo perfectly and ſucceſsfully hitherto, as to poſſeſs themſelves ſo fully of the Supream Power of ſo great and flouriſhing a Kingdom,

Senec. 1. De Clem. 24.

dom, in so few years, would be so impolitick as not to proceed by the same rules, that all wise and successful persons have ever practised in the managing, and for the establishing of an acquired power.

VI. Out of all these premises together (weighing my Positive conclusion, either Affirmative or Negative, touching the Lawfulness or Unlawfulness of subscribing *in universali*) I shall declare my opinion only in these few following particulars.

1. That it is not lawful for any man to take the Engagement with a resolution to break it.

2. That therefore, whosoever thinketh the words of the Engagement do contain a promise of any thing which it is not lawful for him to perform, cannot take it with a good conscience.

3. That whosoever so understandeth the words of the Engagement, as if they did oblige him to any thing contrary to his Allegiance, or render him unable to act according thereunto, upon any seasonable emerging occasion, cannot with a good conscience take it.

4. That if any man for any temporal benefit,

nefit, or avoiding any temporal damage, ſhall take the Engagement with a doubting conſcience (that is, before he be perſwaded in his Judgment, upon ſome probable ground of reaſon, that it is lawful for him ſo to do) he ſinneth therein.

5. That if any man after a ſerious deſire of informing himſelf as rightly as he can, what are the duties of his *Allegiance* on the one ſide, and what is moſt probably the meaning intended by the words of the Engagement on the other ſide, ſhall find himſelf well ſatisfied in this perſwaſion, that the performance in the mean time of what is required by the Engagement ſo underſtood, is no way contrary (for any thing he can diſcern for the preſent) to his bounden *Allegiance*, ſo long as he is under ſuch a force, as that he cannot exerciſe it; and likewiſe, that whenſoever that force is ſo removed from him, or he from under it, as that he hath power to act according to his *Allegiance*, the Obligation of the Engagement of it ſelf determineth and expireth: and out of theſe conſiderations, rather than ſuffer extreme prejudice in his perſon, eſtate, or neceſſary relations, ſhall ſubſcribe the Engagement; ſince his own heart condemneth him not, neither will I.

Sir, I have now two requests to you, which I doubt not but you will think reasonable. The one, that whatsoever use you shall please to make of these papers, or any thing therein contained, for your own, or any friends satisfaction; yet you would not deliver any Copies abroad, lest they should come to be printed, as some other papers of mine, written in this manner, have been without my knowledg. This I desire, both in respect of the danger I might incur from the displeasure of the Potent Party, if any such thing should come abroad; as also lest upon the consideration of some things here hinted, they might think the words of the Engagement too light, and might thence take occasion to lay some heavier Obligation upon us, in words that should oblige *to More*. The other request is, that since I have not any other perfect Copy of what I now send you, you would procure it to be transcribed for me; and either the copy so transcribed, or these very papers rather, when you have transcribed them, transmit enclosed in a Letter, or by some Friend that will be sure to deliver them safe, with his own hands, to my Son ----- in *London*, to whom I shall write shortly, that he may expect them.

Sir,

Sir, I desire that my best respects may be presented, *&c.* ----- God endue us all with Grace and Wisdom fit for these evil times; to whose Mercy and Blessing commend us all, I rest,

Your Loving Friend

B.P. Dec. 20. 1650. *and Servant.*

The CASE of a RASH VOVV Deliberately Iterated.

The Case.

A *Gentleman of good Estate, hath Issue one only Daughter, who placing her affections upon a person much below her rank, intendeth Marriage with him: The Father hearing of it, in great displeasure Voweth, and confirmeth it with an Oath, that if she Marry him, he will never give her a farthing of his Estate. The Daughter notwithstanding Marryeth him: After which the Father sundry times iterateth and reneweth his said former Vow, and that in a serious and deliberate manner; adding further, That he would never give her or any of hers any part of his Estate.*

QUÆRE:

Whether the Fathers Vow so made, and so confirmed and iterated as aboveſaid, be Obligatory or not?

The Resolution.

My opinion is, *That the Vow was* Rash, *and is not at all* Obligatory.

1. The

1. The Question here proposed is concerning the obligation only; yet I deem it expedient to declare my opinion concerning the Rashness also: and that for two reasons. *First*, Because there seemeth in the proposal of the Case, to be some weight laid upon the after iterations, which were more deliberate, as if they added to the Obligation. And *Secondly*, Because I think it needful that the Vower should as well be convinced of the greatness of his sin in making such a Vow, for the time past, as satisfied concerning the present and future invalidity of it.

2. It is easie to believe, that the Gentleman, when he first made the Vow, was possessed with a very great indignation against his Daughter for her high and inexcusable disobedience to him in so very weighty a business. And truly it must be confessed, he had need to be a man of a very rare command over his own Spirit, and such as are scarce to be found one of a thousand, that could so contain himself within the bounds of reason, upon so just a provocation from an only child, (possibly some other aggravating circumstances concurring) as not to be transported with the violence of that passion,

into some thoughts and resolutions, not exactly agreeable with the dictates of right reason. It can therefore be little doubted, but the Vow made whilst the Reason was held under the force of so strange a perturbation, was a rash and irrational Vow.

3. Nor will these after-acts in confirmation of the first Vow, though having more of deliberation in them, be sufficient to redeem either it or themselves from the imputation of Rashness: understanding rashness in that latitude as the Casuists do, when they treat *de Voto temerario*, under the notion whereof they comprehend all such Vows as happen *per defectum plenæ & discussæ deliberationis*, as they express it; For it is to be considered, that when an injury, disobedience, or other affront is strongly resented, it many times taketh a very deep impression in the Soul, which though after the first *impetus* have a little spent itself, it begin somewhat to abate, yet it doth so by such slow and insensible degrees, that the same perturbation, which first discomposed the mind, may have a strong influence into all succeeding deliberations for a long time after. Even as after an acute Feaver, when the sharpest paroxysmes are over, and the malignity of the disease well

well ſpent, although the party begin to recover ſome degrees of ſtrength; yet there may remain for a good while after ſuch a debility in the parties, as that they cannot exerciſe their proper functions, but with ſome weakneſs more or leſs, till the party be perfectly recovered. Sith therefore the after-iterations on the firſt Vow in the preſent caſe, did proceed apparently from the rancor and malignity remaining in the mind, as the dregs and reliques of the ſame perturbation, from which the firſt Vow alſo proceeded: they muſt upon the ſame account (to wit, *per defectum plenæ deliberationis*) undergo the ſame cenſure of Raſhneſs with the firſt. The ſame I ſay for the kind; ſome *difference* I grant there is for the degree: but *Magis & Minus non variant ſpeciem*, we know. And the conſideration of that difference is only thus far uſeful in the preſent Caſe, that the more deliberate thoſe after-acts were, the more culpable they are, and the leſs capable either of Excuſe or Extenuation; and conſequently do oblige the party to ſo much the more ſerious, ſolemn, and laſting Repentance.

4. But concerning raſh Vowes (in as much as the knot of the Queſtion lyeth not there) it ſhall ſuffice to note theſe few points. *Firſt*,

That every *Raſh Vow* is a ſin; and that upon its own ſcore, and preciſely as it is *Raſh*, although it ſhould not be any other way peccant. All acts of Religious worſhip (by the importance of the third Commandment) are to be performed with all due ſobriety, attention, and adviſedneſs: how much more than a *Vow?* which is one of the higheſt acts of worſhip, as being a ſacred contract, where unto God himſelf is a party. See *Eccl.* 5. 1. *&c. Secondly*, That Raſh Vows are for the moſt part, (beſides the Raſhneſs) peccant in their matter alſo; For they are commonly made in paſſion, and all paſſions are evil Counſellors, and Anger as bad as the firſt. *The wrath of Man* ſeldom *worketh the righteouſneſs of God. Thirdly*, That a Raſh Vow, (though to be repented of for the Raſhneſs) may yet in ſome caſes bind. As for example, A man finding himſelf ill uſed by a Shop-keeper, of whom he had formerly been accuſtomed to buy, voweth in a Rage that he will never buy of him again: This is a Raſh Vow, yet it bindeth, becauſe if the party had never made any ſuch Vow at all, it had neither been unjuſt or uncharitable, (nor ſo much as imprudent) in him for to have done the ſame thing, which by his Vow

he

he hath now bound himſelf to do. So if a man impatient of his ill luck at Cards, ſhould Vow in a heat never to Play at Cards any more; he were in this caſe alſo bound to keep his Vow: becauſe there neither is any ſin in keeping it, nor can be any great neceſſity why he ſhould break it. That therefore *Fourthly*, if at any time a *Raſh Vow* bind not; the invalidity thereof proceedeth not meerly (nor indeed at all) from the Raſhneſs (which yet is a very common error amongſt men) but from the faultineſs of it otherwiſe, in reſpect of the matter, or thing vowed to be done; when that which is ſo Vowed, is either ſo evil in it ſelf, or by reaſon of circumſtances, becometh ſo evil, that it cannot be performed without ſin.

5. That therefore concerning the Vow in the preſent caſe, I declared my Opinion that it is not at all obligatory; it is done upon this ground (which is a moſt certain truth, and conſented to by all) that *Rei illicitæ nulla obligatio.* If a man ſhall Vow any thing that is contrary to *Piety*; as if having taken offence at ſome indiſcreet paſſage in a Sermon of his own Miniſter, he ſhould vow that he would never come to the Church, or hear him Preach again,: Or that is contrary to

Juſtice,

Justice, as to take away the life of an innocent person, as those 40 persons that had vowed they *would neither eat nor drink till they had slain* Paul: Or never to make restitution to one whom he knew he had wronged: Or contrary to *Charity*; as to be revenged of, or never to be friends with one that had done him wrong: Or that is contrary to *Mercy*; as if having lost some money by lending to his friend, or having smarted by suretiship, he should vow never to lend any man money, or become surety for any man again. Let such a Vow, I say, as any of these, or any of the like nature, be made either rashly, or deliberately, and strengthened with Oaths and Imprecations, in the most direful and solemn manner that can be devised to tie it on the faster; yet it is altogether null and invalid as to the effect of Obligation. Whence those common sayings, *In male promissis rescinde fidem*; *ne sit juramentum vinculum iniquitatis*, &c. And we have a good president for it in *David*, after he had in a rage vowed the destruction of *Nabal*, and all that belonged to him; which vow, upon better consideration, he not only did not perform, but he blessed God also, for so providentially preventing the

per

performance of it, by the diſcreet demeanor and intervention of *Abigail*.

6. Now the reaſon why ſuch vows are not binding, is very cogent and clear; Even becauſe the party at ſuch time as he is ſuppoſed to have made ſuch Vow as aforeſaid, lay under another (a former, and therefore a ſtronger) obligation to the contrary. And it is agreeable to all the reaſon in the World, that he who either by his own voluntary act, hath bound himſelf (where lawfully he might ſo do) or by the command of his lawful Superior (that hath a right to his ſervice, and may exact obedience from him) is already bound to do, or not to do this or that; ſhould not have power to diſoblige himſelf therefrom, at his own pleaſure, or to ſuperinduce upon himſelf a new Obligation contrary thereunto: *Obligatio prior præjudicat poſteriori.* As in the caſe of *Marriage*, a precontract with one party, avoideth all after-contracts with any other: And if a man convey Lands to ſeveral perſons, by deeds of ſeveral date, the firſt conveyance ſtandeth good, and all the reſt are void; and ſo in all caſes of like nature. The Obligatory power thereof that is in *Vows*, *Oaths*, *Promiſes*, &c. is rightly ſaid by ſome, to be a

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constructive, not a *destructive* power. The meaning is, that such acts may create a new Obligation where was none before, or confirm an old one; but it cannot destroy an old one, or substitute another contrary thereunto, in the places thereof.

7. And the reason of this reason also is yet farther evident; for that *Quisquis obligatur, alteri obligatur*. When a man is obliged by any act, it is also supposed, that the obligation is made to some other party; to whom also it is supposed some right to accrue, by vertue of the said act obligatory; and that that other party is by the said act sufficiently vested in that said right, of which right he cannot be again devested and deprived by the meer act of him who instated him therein, and is obliged to perform it to him (unless himself give consent thereunto) without the greatest injustice in the World. Now God having a perfect right to our obedience, by his own obliging Precept, both for the not doing hurt to any man, and for the doing good to every man upon all fit opportunities: and this right also confirmed, and ratified by our own obligatory act in a solemn manner, before many witnesses at our Baptism, when we vowed to keep all God's Com-

Commandments: it were unreaſonable to think that it ſhould be in our power, by any after-act of ours to diſoblige our ſelves from both, or either of thoſe obligations. For then we might by the ſame reaſon free our ſelves from the obligation of that latter Act alſo (ſuppoſe an Oath, or Vow) by another ſubſequent Oath, or Vow; and from that again by another: and ſo play faſt and looſe, make Vows, and break them *in infinitum*. Evident it is therefore, that every vow requiring any thing to be done, which is repugnant to any office of *Piety*, *Juſtice*, *Charity*, or *Mercy*, which we owe either to God or man, is void, and bindeth not, becauſe it findeth us under the power of a former contrary obligation, and hath not it ſelf power ſufficient to free or diſcharge us from the ſame.

8. The general rule thus cleared, it remaineth to examine concerning the particular Vow now in queſtion, whether it be void upon this account or no? It will be found hard I believe to free this *Vow* from being repugnant to the rules of *Juſtice*, but impoſſible, I am ſure, to reconcile it with the perfect Evangelical Law of *Charity* and *Mercy*. Firſt, *Civil* and *Political Juſtice*, requireth

quireth that every man should obey the wholsome Laws of his Countrey, and submit himself to be ordered thereby. Now, put the case (which is possible enough) that the Daughters Husband should for lack of support from his Father-in-law, or otherwise, live and die in great want, leaving his Wife, and many small Children behind him, destitute of all means for their necessary sustenance. The Law would (as I suppose) in that case, upon complaint of the Parish, and for their ease, send the Daughter and her Children to the Father, and compel him to maintain them out of his Estate. Which order he ought to obey, nor can refuse so to do, without the high contempt of publick Authority, and manifest violation of the Civil Justice, notwithstanding his Vow to the contrary: The Law must be obeyed whatsoever becometh of the Vow; in that case therefore it is evident the Vow bindeth not.

9. But say that should not happen to be the case (which yet is more than any man can positively say before-hand) the Parent is nevertheless in *Moral Justice* bound to provide due maintenance for his Children and Grand-Children if he be able. Saint *Paul* saith that Fathers ought to lay up for the Chil-

Children. True it is, he ſpeaketh it but upon the by, and by way of Illuſtration, in the handling of another argument, very diſtant from this buſineſs: but that doth not at all leſſen the importance of it, ſuch illuſtrations being ever taken *à notiori*, and from ſuch common notions as are granted, and conſented unto by all reaſonable men. The ſame Apoſtle having amongſt other ſins of the Gentiles, mentioned diſobedience to Parents in one verſe, in the very next verſe, mentioneth alſo want of natural affection in Parents. And the diſobedience in the Child can no more diſcharge the Parent from the obligation of that duty he oweth to the Child, of affection, and maintenance, then the unnaturalneſs of the Parent, can the Child from the duty he oweth to the Parent, of *Honour* and *Obedience*. For the ſeveral duties, that by Gods ordinance, are to be performed by perſons that ſtand in mutual relation either to other, are not *pactional* and *conditional*; as are the Leagues and Agreements made between Princes (where the breach in one part diſſolveth the obligation on the other) but are *abſolute* and *independent*; wherein each perſon is to look to himſelf, and the performance of the duty

that

that lyeth upon him, though the other party should fail in the performance of his.

10. Something I foresee may be objected in this point, concerning the lawfulness of the Parents withdrawing maintenance from the Child (either in whole, or at least in part) in the case of disobedience. Which how far forth it may, or may not be done; as it would be too long to examine, so it would be of little avail to the present business. For it is one thing to with-hold maintenance from a disobedient Child for the present, and to resolve so to continue *till* he shall see cause to the contrary. And another thing to bind himself by Vow or Oath, never to allow him any for the future, whatsoever should happen. Let be granted whatsoever can be supposed pleadable on the Fathers behalf in the present case; yet there will still remain two particulars in this Vow, not easily to be cleared from being unjust. *First*, let the Daughters disobedience deserve all this uttermost of punishment from the offended Father; yet how can it be just, that for the Mothers fault, the poor innocent (perhaps yet unborn) Children, should be utterly, and irrecoverably excluded from all possibility of relief from their Grand-

father?

father? *Secondly*, It is (if not unjuſt, yet what differeth very little there-from) the extremity of rigid Juſtice; that any offender (much leſs a Son or Daughter) ſhould for any offence, not deſerving Death, be by a kind of fatal peremptory decree, put into an incapacity of receiving relief from ſuch perſons, as otherwiſe ought to have relieved the ſaid offender, without any reſervation either of the caſe of *extreme neceſſity*, or of the caſe of *ſerious repentance*.

11. However it be for the point of *Juſtice*; yet ſo apparent is the repugnancy of the *matter* of this *Vow*, with the Precepts of *Chriſtian Charity* and *Mercy*; that if all I have hitherto ſaid were of no force, this repugnancy alone were enough (without other evidence) to prove the unlawfulneſs, and conſequently the invalidity, or inobligability thereof. It is (not an Evangelical Counſel, but) the expreſs peremptory precept of Chriſt, that we ſhould be *merciful*, even as our heavenly Father is *merciful*. And inaſmuch as, not in that paſſage only, but for the moſt part whereſoever elſe the duty of *mercy* is preſſed upon us in the Goſpel from the example of God: God is repreſented to us by the Name, and under the notion of

a *Father*, although I may not lay much weight upon it, as a demonstrative proof; yet I conceive I may commend it as a rational Topick, for all that are Fathers to consider of, whether it do not import, that *mercy* is to be expected from a *father* as much as (if not rather much more then) from any other man; and that the want of *mercy* in a *Father*, is more unkindly, more unseemly, more unnatural then in another man: But this by the way, from that Precept of Christ, we learn that as there is in God a two-fold *mercy*, (a giving *mercy*, in doing us good, though we deserve it not, & a forgiving *mercy*, in pardoning us when we have done amiss:) so there ought to be in every good *Christian man* a readiness (after the example of God) to shew forth the fruits of *mercy* to others, in both kinds, upon all proper and meet occasions. So that if any person, of what quality or condition soever, shall upon any provocation whatsoever Vow that he will never do any thing for such or such a man; or that he will never forgive such or such a man: every such Vow, being *contra bonos mores*, and *contra officium hominis Christiani*, is unlawful, and bindeth not.

12. The offices of *mercy* in the former of those

those two branches, *viz.* of doing good, and affording relief to those that are in necessity, are themselves of so great *necessity* (as the case may be) that common humanity would exact the performance of them from the hand, not of a stranger only, but even of an enemy. If a stranger or an enemies Beast lie weltering in a Ditch, a helping hand must be lent to draw it out. The *Samaritans* compassion to the wounded Traveller in the Parable, *Luk.* 10. (There being a feud, and that grounded upon Religion, which commonly of all others, is the most deadly feud between the two Nations) is commended to our example, to the great reproach of the Priest and Levite, for their want of *Bowels* to their poor *Brother* of the same *Nation* and *Religion* with themselves; For the nearer the Relation is between the Parties, the stronger is the obligation of shewing *mercy* either to other. And there is scarce any relation nearer, and more obliging, then that of Parents and Children.

Our Saviour, who in *Matth.* 15. sharply reproved such vows, (though made with an intention to advance the Service of God, by inriching his Treasury (as hindred Children from relieving their parents, will not certainly approve of such vows (made without any o-

ther intention then to gratifie rage, and impatience) as hinder Parents from relieving their Children.

13. If to avoid the force of this argument, it shall be alledged, that the Daughters disobedience, in a business of so high concernment, might justly deserve to be thus severely punished, and that it were but equal that she, who had so little regard to her Father, when the time was, should be as little regarded by him afterwards. All this granted, cometh not yet up to the point of shewing *Mercy* according to the example of God. No Childs disobedience can be so great to an earthly Parent, as ours is to our heavenly Father: Yet doth he notwithstanding all our ill deservings continually do us good, communicating to our necessities, and causing his Sun to shine, and his Rain to fall, and infinite benefits in all kinds to descend upon mankind, not excluding the most thankless, and disobedient, and rebellious, from having a share therein.

14. And as for that other branch of *mercy* in *pardoning offences*, God giveth a rich example to all men, of their duty in that kind, (and to Fathers particularly (by his great readiness to pardon the greatest offenders, if they sincerely

cerely seek to him for it. If the Father in the Parable, *Luke* 15. had proceeded with such severity against his riotous Son, as to have vowed never to have received him again; he had been a very improper exemplar, whereby to shadow out the mercy of God to repentant sinners. Concerning the great importance of this duty, which is so frequently inculcated by Christ and his Apostles, and so peremptorily enjoyned, as not any other duty more. See *Matt.* 6. 4, 15. *Matt.* 18. 21.---35. *Eph.* 4. 32. *Col.* 3. 13. *James* 2. 13. See also *Sirac.* 28. 1, *&c.*] I shall not need to say much; only as to the present *Case*, it would be considered, how perverse a course it is, and contradictory to it self, for a man to think himself obliged by one inconsiderate act, never to forgive his Daughter; when as yet he cannot beg pardon of his own sins, at the hands of God, (as he ought in his daily Prayer to do) without an express condition of forgiving every body, and an implicit imprecation upon himself, if he do not.

15. But shall the Daughter that hath thus grieved the spirit of her Father, thus escape unpunished, and be in as good a condition as if she had never offended? And will not others

others be incouraged by her impunity, to despise their Parents after her example? There is much reason in this objection; and therefore what I have hitherto written, ought not to be understood, as if thereby were intended such a plenary indulgence for the daughter, as should restore her *in integrum*, but only that she should be made capable of receiving such relief from her Father, from time to time, as in relation to her necessities, and after-carriage, from time to time, should seem reasonable; and that his Vow ought not to hinder him from affording her such relief. But by what degrees, and in what proportion, the Father should thus receive his daughter into his fatherly affection, and relieve her, must be left to discretion, and the exigence of circumstances. Only I should advise (in order to the objection, *viz.* for examples sake, and that the daughter might be made, even to her dying day, and kept, sensible of her great and sinful disobedience to her Father) that the Father should cut off from his Daughter, and her Posterity, some meet portion of his Estate, (as perhaps a fifth part at the least; or if a fourth, or a whole third part, I should like it the better;) and by a solemn deliberate vow, dedicate

dicate the same to be yearly imployed in some pious and charitable uses. These times will afford him choice of objects, if God shall move his heart so to do; and by so doing, he may, *First*, in some sort redeem, and make a kind of satisfaction for his former *Rashness*, (not *Popishly* understood, and in regard of the *Justice of God*, but) in a *moral* sense, and in regard of the *World*, and his own *Conscience*. *Secondly*, it may be a good means to keep the Daughter in a continual fresh remembrance of her fault, that she may not, after a short and slight repentance (as in such cases too often it happeneth) forget the same; whereof she ought to have some remorse all the daies of her life. *Thirdly*, he shall thereby after a sort, perform his first vow; I mean according to the general intention thereof, and the rational part, (which was to make his Daughter repent her folly, and to smart for it:) the over-plus more than this, being but the fruit of rancor and perturbation. *Lastly*, he shall in so doing, doubly imitate God, our heavenly Father. *First*, when a rash or sinful act is made an occasion of a pious or charitable work, it beareth some resemblance of, or rather is indeed it self a gracious effect of that goodness and wisdom in God, whereby he bringeth light out of darkness, and good out of evil. *Secondly*, God Himself when he graciously pardoneth

doneth an high preſumptuous ſin, as he did *Davids* great ſin, in the matter of *Uriah*, commonly layeth ſome laſting affliction upon the offender, as he did upon *David*, who after the ſealing his pardon for that ſin by *Nathan*, ſcarce ever had a quiet day all his life long. The reaſon whereof ſeemeth to be double, partly for admonition to others, that none preſume to provoke God in like manner, leſt they ſmart for it alſo in like manner; and partly for the good of the offender, that he may by the ſmart be brought to the deeper ſenſe of his error, and be eſtſoons reminded of it, leſt he ſhould too ſoon forget it.

Thus have I with very much ado, (in that weak condition I have been in, ever ſince the queſtion came to my hands, and wherein I yet continue) declared my opinion fully concerning the whole buſineſs as far as I underſtand it. More largly I confeſs than I intended, or perhaps was needful; and with greater ſeverity than (it may be) the parties will well like of. But truly I deſired to do the part of a faithful Confeſſor, and the ſores on both parts ſeemed to be ſuch as were not to be touched with too gentle a hand: In the Daughter, an act of high diſobedience, tranſported by the paſſion of inordinate love; and in the Father an act of great Raſhneſs, tranſported by the paſſion of inordinate anger: both beyond the bounds of right Reaſon, and Religion; and both to be deeply repented of. Howſoever, I cannot be ſuſpected to have written any thing, either out of favour for, or prejudice againſt either party; not having the leaſt conjecture who the perſons are that are concerned in the buſineſs; nor ſo much as in what part of the Nation they live. I ſhall pray that God would direct them both, to do that which may beſt ſerve to his glory, and bring the ſoundeſt comfort to their own ſouls. Amen.

FINIS.